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Lecture 133
Washingtonburgh March 7th 18th 1789.

Of Economics.

We come now to
to treat of what some call the adventitious states of man-
kind viz 1st The domestic or political state which however
may be denominated natural as well as the other because
men were made for society & all mankind except the
just receive their influence in the domestic state. The same
necessity likewise introduces the political state which to all
mankind is as natural as the other way man being born
in some political society as well as he is born a member of a
certain family Economics describes the nature laws
& duties of families or domestic society. . Man confi-
dered as an animal was designed to continue his species
as well as the others but as the possession of reason & many other
qualifications essentially distinguish him from all the other
species of Animals it will easily be found that he can-
not continue his species in y same ^{manner} as the
brutes the creature of sexual-

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attraction which is the intention to propagation provided
by nature is in Brutes merely temporary
& in many species annual coinciding with a particular
season of the year when it has found its season it immu-
ably ceases at least after the young can shift for themselves
& in some species before that period the breeding pair know
no further attachment to each other & become strangers.
but as by the law of nature the infancy & helpless state
of man is of long continuance & necessarily requires the
help of both Parents if the principle that brought man
kind together were of no more strength & continuance
than it is in Brutes. The young in most cases
young in most cases would perish for want & the few
that survived would have a multiplicity of difficulties
to combat in their tender age without protection & as-
sistance while the powers of their reason were but imperfect-
ly unfolded & their reason too weak to be of any use to y^m
The consequence in that would be that all the human
progeny would die young or later before arriving at the
year of maturity & the whole species would be extinct
at the end of one age but nature which does nothing in
vain & which provides for all her offspring according
to their necessities her ordered matters quite differently
in this particular w^t regard to the human species in y^m

the principle of fixed attraction is not only strong
 to form a lasting connection being complicated with reason &
 sentiment & sealed with the solemnity of a vow & contract
 but it is likewise permanent & uniform not confined to
 any season of the year or indeed to any period of life now
 the strength & permanency of this principle in the hu-
 man species clearly indicates a different disposition
 of nature wth regard to them & the others & the difference
 of disposition is exactly suited to the nature situation &
 exigencies of each The impetuosity of the passions of Brutes
 renders them incapable of permanent & lasting connection
 & if such were necessary to the preservation of their off-
 spring it would be impossible for them to arrive at matur-
 ity for this reason their helpless state is but of short
 duration & they come in a little time to the
 possession of all the powers of their nature but the case being so vastly
 different with regard to man the principle of union is accordingly
 made more vigorous & durable in the human species being com-
 plicated wth reason & sentiment & with the laws of honor & justice be-
 sides the nature of man is so constituted y^t even in the most ig-
 norant & savage state he feels the force
 of this principle so far as to adhere to it in most cases
 so as to continue his race & jointly to nourish & defend

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them in their tender years. The Union of the
Sexes which in Brutes depends upon principle in-
tensity, temporary & sensual is therefore by the destination
of nature connected with moral sentiments & election
in the human species Marriage is therefore the first
human society & the foundation of all others & consists
in the voluntary conjunction of an indivi-
dual of each sex for the purpose of mutual happiness &
comfort & with a view to the propagation & education
of children now this in the case of the human species
being necessarily the work of long time a temporary con-
nection will not accomplish them Marriage is defined in
the Roman Law "Conjunctio Viri et Mulieris"

A temporary or a transient appetite — or an union
formed on such a Principle could never therefore compass
the sustenance & preservation of the young of the human species
is through a long & helpless infancy many art & con-
tinuance as well as much strength & steady patience
& exertion an indispensable nursery for this purpose
to think of accomplishing it by different means
is only showing our ignorance of human nature

Accordingly it has been found by experience that even political
institutions adopted by civil rulers whether from prin-
ciples of charity or benevolence are totally inadequate
& insufficient to supply the want of parental care
Sundling Hospitals are only large
or burying places in which infants remain a short
time above ground before they are buried & we may
say of the host of these what the Poet in the fable
says of the den of the fox "Quia
in me refugia tenent amica de adversum spectantia
nulla rebor sum" Multitudes are daily carried to them
but few come out alive or ever arrive at maturity besides the
progeny of transport & casual connections coming into society
without parental attachment have no motive to gain a
character nor person whom it is of importance to
them to please others having no motive of duty become
naturally the slaves of selfish appetite & of the few
Bastards that are not guarded in yr. cradles the greater part
are cut off by the hand of justice so that society is neither
enriched nor benefited by children propagated in this manner
^{It is} calculated that out of 20 bastards that are born some
live to 3 years of age & scarce one in 30 ever arrive at matu-
rity being debilitated with grief & shame by their parents

as the monuments of their incontinence & folly or forsaken by
altogether — & abandoned to the cold embrace of
common charity the greater part are starved in
cold unattended while they live & unlamented
— when they die on the contrary legitimate children
as being pledges of the mutual love honor & fidelity of
their parents are looked by them with pleasure & tender
sympathy & with the just dawning of sensibility
— begin on their part to discern & return the fruits of paren-
tal kindness in the fear of their mothers & Fathers

"Mater parve puer respice dignosce matrem
"

Virgil who studied nature so exactly was exceedingly
well aware that the affection & care of Parents was abso-
lutely necessary for education — of children & therefore
ventures to assert that no children on whom their parents
had not smiled viz that ~~are~~ bastards the offspring of va-
grant lust & transient connection would ever make a
figure or be esteemed in the world accordingly ancient
History furnishes us with numerous examples of persons who
have been raised by their own bastards but of exceeding few
of it sort — — — that there arrived at honor &
distinction were in those nations where concubinage was allow-

is a bastard, nourished with a degree of tenderness
in after time may even in Spain where bastards may in-
herit by law & Humblings are

few that come to maturity
still fewer to distinction or usefulness. The care & attention
as well as the affection of both parents is so necessary to the
advantageous & proper education of their offspring that no father
dare neglect whatever can be found fit to supply its place when if
care of one or both parents is wanting accordingly marriage
is a natural
educ & the actual continuance of the human species to the
present time is a proof that it must have been from the begin-
ning. There is no probability from history or tradition that
any tribes of men ever lived & propagated like the beasts of
the forest a state however to which all our modern impostors have
earnestly laboured to reduce all mankind notwithstanding
y^r pretensions to humanity ~~~~ & benevolence but
supposing there was a state in which marriage was dispo-
nised

essentially opposed & stunted & the race of mankind
must soon fall altogether when lawful connubium is neglected
& profligacy & undistinguishing Lust indulged. The Romans
by the time of Augustus were become a nation of debauched &
sandy Profligates. For the most part & the numerous transitory
connubium they formed ~~~~ neither tended to cement
the affections nor to increase the numbers of society.
Augustus therefore made laws for encouraging matrimony

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The Roman Empire would have
been soon extinguished if the number of their citizens had not
been increased by the manumission of Slaves. The communica-
tion of the right of Citizenship to foreign nations in

There was so many of the Gauls & Spa-
niards made citizens of Rome by the Emperor Claudius
that Seneca supposed that were only a very few of those
nations that were not Roman citizens, or as the business
of hunting Mustangs or Lagas was become a common
trade in the in the ~~last~~ times of Augustus the number of
of unarmed people must have been very consider-
able. Cicero is said by some to have established the insti-
tution of

leader of the Colony that
founded Athens he only discouraged Polygamy, to which
his colonists as coming from the east had been formerly

Polygamy is evidently an abuse of
marriage & an effect of Exorbitant lust as well as of that
Tyrranny exerted over the female Sex that still prevails in
the East. It is probable that Tyrranny was introduced into the
world before polygamy became common & that the last of
these were consequences of the first as the story of Lamech's
two wives is mentioned as a
singularity even in the race of Cain. After men began

to exercise violence against one another it is probable that
the female Sex being entirely defenceless would fall into
that slavery from which on these parts of the world
they have never yet been freed besides Polygamy has never yet
any country without the institution of Eunachism a vio-
lation of the natural rights of mankind which was
found necessary for the supporting it one error naturally
leads to another thus slavery & Eunachism accompanied Polyga-
my & concubinage & in all the Eastern nations civil society
to this day supported by a constant violation of the
rights of nature in one sex altogether & in great num-
bers of the other —

Lecture 134 Friday 4th of March 1799.

Monogamy or the union of one of each sex is the institution
of nature & cannot be generally violated in any country with-
out other violations of natural rights accompanying & supporting
the violation of it — Population has uniformly languish-
ed whenever Polygamy was established & in all nations where it
prevails an artificial recruit or annual importation of inhabitants
has always been found necessary accordingly —

The Turkish Empire is annually recruited by
great numbers from Poland Lingula Persia & Georgia
in the East & Persia imports likewise an annual supply
of people from the same countries when Columbus at first

collected his band of cow thieves & robbers into his
apartment he soon found that they could last but one
age having no females among them that they were
a populus errorum as Horace calls them & therefore
he provided them with wives by the rape of the Italian
virgins an expedient natural enough for those who had
got all they had by robbing at the same time this ex-
pedient indicated the great rudeness of this people & the
ill reputation that they had among their neighbours
Polygamy being one introduced by Tyranny warren-
ted by custom another sort of Tyranny & men of
wealth in the pastoral ages entertained a plurality of wives
being enabled by their wealth to support them & their issue
but as the number of males & females that are produced
have always been so nearly equal to each other it has
never been in the power of men to render Polygamy un-
useful even in those countries where the importation of
female slaves is a common trade The far greater
part of mankind from necessity if not from choice having
uniformly adhered to the original institution of nature
why all the calculations of the numbers of mankind
that have yet been made about 10 females are born

into the world for every 19 males which renders Poly-
gamy impossible for want of a sufficient number of
females. The male sex being exposed to extraordina-
ry ravages & diminution from war navigation &
painful drudging from which the female are exemp-
ted is accordingly produced by nature in greater numbers
than the other sex yet this excess of the number of males
above that of females is so small that it is manifest
that nature intended an equality of number in each sex.
Universal Polygamy is therefore so far from being the inten-
tion of nature that nature has rendered it absolutely im-
practicable & if the male sex were not liable to extraor-
dinary diminution from the causes already mentioned one
man out of every 19 would necessarily be obliged to live sin-
gle for absolute want of a mate so far is it from being
practicable or from being the intention of nature that one
male should have several females. Savages practise poly-
gamy only in proportion to their means of subsistence
& to the gradualness of the institution of slavery among them
but even savages for the most part practise monogamy
in obedience to the intention of nature as well as all
nations that are properly in a civilized state. The cir-

circumstances in which mankind are born must necessarily be of the highest importance to them not only with regard to their education but likewise to the principles & views with which they set out in life. The impressions of human nature are so many that even in the most advantageous circumstances without the help of good education & example it is very difficult to exalt them to the pursuit of virtue & excellence - what therefore must be the case when they are educated in the lowest & most vicious habits & have never enjoyed the benefit of a good example. The strongest constraint & violence & the severe discipline of a ship of war have often been found necessary to give some ideas of order to those youths who have been spoiled by neglect or by excessive indulgence by the roman law a bastard was declared to be filius nullius & he was not subject to the power of his parents as other children were nor was he obliged to maintain them if they fell into indigence though he were ever so able to do so a bastard likewise could not inherit even by the will of the father to the prejudice of his collateral heirs & could only receive a legacy in common with a stranger. all nations where

property & laws of Sumpers are established or
apt pain in some instances proceed by the same rule
without matrimonial fidelity no man could have any
certain knowledge of his own origin which knowledge
however is absolutely necessary to excite his tenderness
& affection Polygamy therefore cannot be the intention
of nature both because it is impracticable for the whole
species & likewise because if it was both
Sexes would have an equal title to the benefit of it. The
male can pretend no right except that of violence to inter-
tain several females confined by their tyranny & contented
to share only their transport & divided favors while the
females have no liberty of choosing one in marriage —
besides polygamy necessarily produces enmity which begets
jealousy & made way for Eunuchs vast multitudes of
wretched slaves were mutilated in early youth in order to
watch over the females of a jealous desert & those as
wanting the tenderness of nature were considered as most
safe & faithful servants being wholly devoted to their masters
they were commonly intrusted by the Persian monarchs with
the most important affairs & ruled in all the courts of
the East as well as those of the Roman Emperors in
the decline of the Empire they were commonly the

parents of their masters & their favor bestowed to be purchased with money by any one who had any favors to ask at court. Plato in framing the idea of a perfect governor proposed that all the women should be common to all the males in order as he imagined to prevent jealousies quarrels & competitions, but Plato is not the only Philosopher who has endeavored to counteract the maxims of nature in order to support the errors of a most wretched system. The members of Plato's commonwealth bestowed to have their Brudes in order to have submitted to the will & inspection the sentiments of nature as well as those of friendship & honor must be wholly extinct before men consider nothing except difference of sex in the persons to whom they are united. Even the most abandoned debauchers who have done their utmost by pernicious lust & the study of infidel authors to destroy the sentiments of nature within themselves have not with standing never been able totally to extinguish the sentiments of delicacy & propriety in themselves nor to cease respecting them in others. It was Mr. Burne who said that formal insipidity when known was a small matter & when unknown was nothing yet if any one had insinuated that his mother or sister or any of his female relations were common.

whom even he would have considered as the high-
est affront. The fact is that these infidel writers neither
do nor can believe those assertions which they pub-
lish to the world. They make laws which they pretend
to be the laws of nature for the benefit of themselves
& their friends only but never intend or can endure that
others should take the same liberty at their expense. They
pretend indeed to have a right from nature to live like
the beasts of the forest. By violating or seducing all
the females that come in their way but at the same
time they expect that their own wives should be chaste
& that their daughters should be educated in principles
of virtue & decency which is superlatively absurd if
there were any truth in their principles or even if they
believed them to be true. The real practice & remaining
feelings of these men which they themselves have been un-
able to conquer by profligacy & infidelity afford the
most substantial contradictions of their professed prin-
ciples & opinions. They teach openly that marriage is
a violation of the rights of nature & the effect of super-
stition & craft & that the union of the two sexes
ought to be subject to no laws except those of

mutual comfort but if any person should take
the liberty of whispering the very same doctrine to
any of these female relations they would challenge them
to a duel & treat them as an enemy to the order
right & peace of society though he was only follow-
ing their own express direction & example Plato seems
to have expected that all the children that were pro-
duced from the transient & promiscuous connections of
the members of his bestial republic would be now-
rised & educated by the joint labour & care of the
whole community from mere cowards to the laws &
that each of these children of the public would find a
father in every member of it as he could not know
that he was not his own. That where is the man who
would acknowledge such indifference or who would con-
sent to labour for the support of a multitude of children
in whom he knows of no property that he had more than
all others? many men find difficulty enough to comply
with the call of nature in labouring for their own acknow-
ledged progeny & an often excusing negligent in perform-
ing that duty but what would be the case if they
had reason to think that those children whom they
laboured to support were none of their own.

Nature has not left the propagation & education
of the human species to ^{uncertain obligation} of Laws & political
institutions but has much more firmly provided for
it by the passions & the very constitution of the nature
of every individual so that even the most debauched
& abandoned men as has been shewn already are
nearly fully able to moderate their original feelings.
We are told by Justin that during the Peloponnesian
war when the Spartans were detained many years
from their wives they sent home a large party of
young men to whom they delivered up all their wo-
men promiscuously in order to continue the race of
Spartan citizens. This was a triumph of policy over na-
ture which happened only once but nature triumphed
in its turn notwithstanding that the Spartans are
represented by some writers as not far from Plato's
sentiments on this subject the children that were produced
by these eager & promiscuous connexions were now
reared with care by their mothers in obedience to
abstract husbands by whose command they had produced
them but when the husbands were returned from the
war they could not with paternal love to these bas-
tards though together by their own express orders

but drove them out of the country to seek a settlement for
themselves accordingly they marched into Italy under the
conduct of Phaenias when they founded Maritimum -
Some writers have represented the Spartans as having
their women in common according to Plato's descrip-
tion because they ordered ^{children to} be educated in the public but
thus will tenor history & the exactness of genealogies
in Sparta as well as in other states sufficiently evince
the vanity of such traditions. our modern infidel
writers are very zealous to have it believed that the
ancients lived in a licentious & abandoned man-
ner as they do themselves & therefore whatever we
find in their works should be carefully compared
with original authors Plato imagined that all
the mischiefs occasioned by avarice & from men
having a regard to one family would be obviated
by the commonality of ~~room~~ ^{rooms} & the uncertainty
of their issue but he did not consider that human
nature behaved to be moulded or made over again
after a new model before such an institution could
be reduced to practice

Lecture 135 March the 20th 1789.

Of Rights of Policy that should the feelings of human nature might be treated with abhorrence & when we consider the circumstance it is not to be wondered at that Dyonisius the Tyrant of Sicily though his humanity could not be very great absolutely refused to grant Plato any city of his dominions or any island in the mediterranean sea in order to realize his favorite project. Why Dyonisius had probably sense enough to discern that Platos scheme was entirely inconsistent with human feelings & that it would have only sacrificing a part of his subjects to have granted his request no laws or execution whatever could have such influence as to render persons who are sensible of their offspring & consequently in that natural affection on the least solicitors to take care of the young beside Polygamy is fatal to domestic happiness & mutual affection as is evident not only from the nature of the thing but from the history of all ages we need only refer to the families of Jacob in the Holy Scripture. The example of the two wives of Abraham cannot be pleaded in

As far as regards the Polygamy in that though con-
tained by the wife soon come to her end at her
death. The influence of the Elector of Saxony in the
days of Platenh that of Louis infatuated & that
of the Pufend King of Prussia are singular phe-
nomena from which no general inference can be ad-
duced but it is universally agreed that the Ba-
rains or Seraglios of the East are the abodes of for-
row discontent envy tyranny & misery. The inconve-
niences experienced in Monogamy are such as may
be avoided by a prudent choice or endured by ordi-
nary patience but those from Polygamy arise from
the very nature of things & are fatal to the welfare
of society as well as to the happiness of the mar-
riage state. "The first law of the matrimonial soci-
ety is that the woman be faithful to ^{the man and copartnership} with no other."
It must evidently be the greatest injury to impose
upon a man an adulterous & spurious offspring to in-
herit his estate & to deprive of that affection which is
due only to his own issue. The 2^d law is that the
husband should be equally faithful to the wife
as it is directly contrary to natural equity that the

wife conjugal affection & all her care & fortune
should be entirely devoted to one man & his off-
spring while the affection of the husband is inter-
rupted by & divided among several women &
their children & his fortune in other manners those
men therefore who practise Polygamy not only injure
their wives by making a very unequal return for
the affection which they demand of them but they
also injure other men whom they deprive of their
natural right of having mates by encroaching a num-
ber to themselves. The Polygamists behave very ill
consult their own ease because a man may be very
fit to govern a very large state who would not with-
standing be quite unable to compose the quarrels even
of two contentious women who had each an equal
right to his protection & affection Solomon who was in
general the wisest of men was neither wise nor hap-
py in the article of marriage out of a thousand wives of
one sort or other which he had he found not one which pleased
nor was it possible that it could have been otherwise accord-
ingly he is very eloquent upon the subject of trailing &
contentious women & concludes that it were better to live

dwell in a wilderness or to be plagued with one of them
 & it is probable that he did not need to go farther
 than his own family for the original from which he drew
 the 3^d Law of the state of matrimony that married
 persons should be a perpetual union of interests & pursuit
 of good of the family & chiefly the right education
 of their common children & the improving their condition as
 they had opportunity. The union of affections interests
 & rights which is constituted by the matrimonial rela-
 tion suggests a common object of pursuit to the married
 couple viz the interest of their family in which their
 common welfare & reputation is comprehended. Mar-
 ried persons should have no separate interests. The law
 considers them as one person & each of ^{each} depending on the
 other. The 4th Law of the matrimonial state is that
 the wife should be subject to the authority of the husband
 with whom she has pledged her faith. The marriage
 state cannot be supported in the form of a free repub-
 lic but must have a decided authority & determine
 differences in opinion. It must therefore be a monar-
 chy of temper & gentle hand as the monarch is deeply
 concerned in the honor interest & reputation of the subject
 & she is mutually interested in her will & an & reputation
 W^h therefore erroneously imagined that no proper

power or right of commanding is vested by the law
of nature in any of the parties & that such a pow-
er would be opposite to that tender affection which is the
basis & support of matrimony but he does not con-
sider that no society whatever small or great can
exist or be governed without a supreme power or other-
wise differences must be perpetual & all business
necessarily stand still an attempt indeed was made
in this country to unite 13 sovereign states in one
confederacy without any or commanding
power whatever the congress having only the power of re-
commendation but experience has demonstrated that
this plan was suppositively stupid irrational & useless
the defense of all foreigners & now also of ourselves & many
of the projectors of this wonderful confederacy had tried
at first in their air sameness by adopting Mr. Hutchesons
plan & recommending all power & command over their wives
they might perhaps have come to be convinced very
soon that this plan was irrational & defective &
could never decide one single question which indeed has
been the great defect has formed the man for au-
thority & being likewise endowed with tenderness & at-
tention for the female sex & particularly for the person

who is their own choice he must be the fittest person
to govern Council & restrain and the rights of
the wife but still in a constance with submission
to the authority of the husband & the use of these
rights accompanied with prudence tenderness &
submission will give her a sufficient share in the
government of the family Some women by using these
means in an artful manner have governed their
husbands all their lives without ever letting in them
know of it & if a husband is possessed of magnanimity
& a love of justice & benevolence he will choose
to govern mostly by persuasion & not make use of
authority except in cases of extremity Some wives yield
to their husbands with all a grace & with so much
ingenuing & earnestness as obliges the husband to lay
own case open to revoke their orders & submit to the
wife's intimation that she may be sweet in good
humor such women abuse their ^{power} ~~liberty~~ & must the

order of nature by murmuring at lawful authority
& obliging their husbands to submit to their will for
bear of their bad humor Juvenal in his sixth sa-
tir has some terrible pictures of wives of this descrip-
tion. The authority of the husband may be -

maintained in a perfect consistency with tenderness &
friendship & implied in ^{matrimonial} relation. Besides as to a
matter of necessity it needs no excuse. There must
be a dispute & supreme power in every society otherwise
it must come to an end on the very first difference of opi-
nion that takes place among the members & even Mr.
Huckinson is obliged to own ————— that the busi-
ness of a family without those being generally most
important is most proper for the man & that all con-
cours within doors ought to be left to the management
of the wife but a divided sovereignty is as disagreeable
& pernicious as a disputed one. It would be found to be
extremely bad for two independent supreme powers to
live alternately in one another's dominions & easer most
often ours when it would be exceeding difficult to make
distinct limits between them to the satisfaction of each
party especially when there was no judge to decide the
matter. It is truly astonishing that a person of Mr.
Huckinson's ^{human} ~~man~~ abilities should not have been aware if
he was contributing by utmost to make ^{matrimonial} ~~matrimonial~~ ^{dis}propor-
tion & universal by removing all possibility of deciding
them if his doctrine should have been adapted. It is very
happy indeed that most married women do not com-
monly read systems of philosophy else Mr. Hutchinson

would be sure of having all the women at least on
his side & most sanguinely attached to his system -
a ~~large~~ ^{large} man of very simple manners who stoutly had
surrounded Mr. Huchins in exhorting a country couple to their
duty upon occasion of their marriage more than -
30 years ago happened to adopt his system with-
out knowing of it & being a lover of justice he took
occasion to tell them that the party which had most
wisdom ought uniformly to govern & the party who
had less ought always to submit to the other how-
ever acquiesced in this condition each imagining that
they were the wisest of the two but as that power was
not fixed at ^{them they have ever since} ~~it~~ ^{been} disputing which of them is the wisest
but possibly have not yet been able to determine the mat-
ter neither of them however were much obliged to their in-
fluencer who ought to have told them that the man -
behaved to govern an established & decided authority
therefore is necessary in every family to determine differences
& to prevent ^{quarrels} from being perpetual we shall see by & by
that this is a good a political as it is a good economical
maxim Therefore is best suggested by Providence & a hus-
band will meet with more respect from his wife when
she knows that he is immovable than when her
importunity can make him do what she pleases
accordingly in the earliest age under husband's maintain-

ed that gravity & authority their wives never thought
of them. Even in the modern age of complaisance
gallantry the matter is become much more delicate &
wives are too apt to rage in kind in the history of
monarchical governments that the mildest & most
condescending princes have uniformly been worst
obeyed & that those who acted with rigor commonly
found a ready compliance with their orders. The
same observation may sometimes be applied to fa-
milial mankind as well as woman-kind are more tied by
fear & tenderness much less influenced by gratitude than
they ought to be on the other hand an overstrained
authority extinguishes all respect as too much famili-
arity & condescension often merit contempt. It is very dif-
ficult in many cases to hit the exact middle between
these dangerous extremes when a husband once suffers
his authority to be disputed it is not very probable that
he will pursue it much longer. Some wives are apt to abuse
their right of womanhood & against all good manners
& authority to argue cases over again that have been
already decided every day of their lives when this is the
case the husband has little prospect of peace & his
authority is at an end for ever & when he cannot
impose silence on his turbulent wife he may expect Solomon's

"continual dropping" & that she will now have
done telling ^{him} his faults as long as he lives a Roman
Catholic confessor one asked a married man ^{who was} her confessor
why he had so often beaten his wife. I have observed
says the Priest with all your confessions of late that
this is always your last article. That is right the
penitent I am extremely apt to forget my sins but when
over I beat my wife ^{little} she tells me them all over distinctly
& then I immediately hurry away to confession be-
fore they get out out of my head again. Matrimo-
nial Brawls are like sedition in a state they threaten
an anarchy and extinction of ~~the~~ of authority &
when they are supposed to last they extinguish affection
& put an end to all the duties & all the pleasures of
the matrimonial state a married couple in London have
very been for some time in this way & being yet young
were willing to put an end to their daily disputes tho
it even by way of lottery if they might have a prospect of
~~quitting~~ ^{quitting} ~~days~~ ^{for a future}
After several methods had been proposed & rejected they a-
greed at last to go & hear sermons at the nearest church
the minister of which neither were acquainted with &
that they should be determined by what he delivered
in his sermon if they found it related to their case they
went accordingly to a preacher having chosen a text contain-
ing the duties of married persons handed them such a man

ner as was not satisfying to either of them. The man
imagined that the wife was acquainted with the preach-
er & had ^{seen him} ~~had drawn~~ ^{him} to heart on purpose to con-
demn his conduct & justify her own & the wife was
not so firmly convinced that the husband was privately
acquainted with him & had got him to preach that ser-
mon against her mother. However Sunday Preacher en-
ter would quite settle this by way of a test question
they agreed to open the books of common prayer ~~but~~
at random & be determined by if first sentence if found
^{must of eye} whether their differences were ever to be ended or not
but unluckily the passage happened to be the end of the
Doxology it was in the beginning so it is now & so it shall
be forever more so that matters were as bad as ever -

Lecture 136th Monday the 23^d of March 1809.

The fifth law of the matrimonial society is that
the bond be perpetual to end only by death. This is absolutely
necessary in order to make matrimony a state of friendship
as also in general for the right education of children who are
inherently born for a considerable part of life & this lasting
duty or charge is imposed by nature on both the Parents
of the bond were not perpetual the most miserable con-
sequence must naturally be expected fraudulent mar-
riage

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riages would be made with a criminal design of breaking
the contracts. The Parties would be rendered miserable
& the female partner at least would have thus misery complicated
by being incapable of acquiring new connections. Children would
be neglected or abused by the introduction of new fathers or mo-
thers or might be defrauded of the inheritance of their parents
by losing them in their tender age. nay children might be
said often to want legal Parents altogether by their be-
ing born at such a time when it was entirely doubtful to
which Parent they properly belonged. Lustful & capri-
cious men & women would be constantly eager for new matches
quitting their former partners with as little regret as one
would do a pair of old shoes to put on new ones. In short
almost as many inconveniences would result from this me-
thod as from the abolition of matrimony altogether. on the
other hand those that are joined in a perpetual band ha-
ving no other prospect in view than that of continuing to-
gether for life their differences are rendered much less violent
& reconciliation far easier produced but if the way were al-
ways open for a separation every difference might be fatal
to their union & quarrels might be continued on purpose
by designing parties in order to bring about a separation

The Roman Catholics have endeavored to confer all
possible solemnity on the marriage contract by mak-
ing it one of the sacraments of their Church & declaring
it indissoluble except by death or by a divorce obtain-
ed upon just & canonical grounds. When Mr. Pope
had heard that his friend Mr. Wickesly had married
his own housekeeper on his death bed after having re-
ceived the sacrament of extreme unction he congratulated
him in a letter which is still extant on his exact
obedience to the rules of the Catholic Church which in
the enumeration of the sacraments in their
sets down matrimony in the last place after extreme
unction as a hint according to him of the proper order
in which these sacraments ought to be taken but
Mr. Pope himself did not even take it in this order
for he died a Bachelor — Divorces were indeed
indulged to the Jews in order to preserve the women from
the fatal effect of the choleric tempers of their husbands
accordingly we are told in the new testament that the
power of divorce was permitted them on account of
the hardness of their hearts & not that it was agreeable
to the law of nature

to the law of nature or confirmed by ^{institution} original
matrimony The civil temper of the Jewish nation
makes a very conspicuous page in all the parts
of their history In the very small country which
they inhabited they made no less than 6 cities of
refuge for those who had slain their neighbours
in sudden passion & if they had not been allowed
to divorce their wives when angry with them perhaps
even 40 cities of refuge would not have been sufficient
for them The bloody designs of the sons of Jacob against
Joseph that were founded only on a ~~dream~~ dream
& his change to them afterwards not to sell but buy
the way The stern cruelty of Simeon & Levi the dis-
grace & exterminating war with the tribe of Ben-
gamin may the whole of the Jewish history be thence
of the siege & destruction of Jerusalem witness their
charter & mutual resentment who signify any
thing that we find among us nations Milton in
his Tetraistoron endeavours to establish incompatibility
of humors in the parties as a valid ground of divorce
& being an ingenious & learned man he was able
to adduce many famous arguments in support of

Am Spencer but his Book was very ill received
by the public of which he complains very bitterly
in an Epigram among his poetical works. The
reason why the Book was not well received was
not only the number of which indeed were
had enough but Matters political principles & ha-
ving taken part for the usurpation & effluated as
later secretary to Cromwell but what perhaps had
more weight than all this was the very occasion
of the publication. The author had divorced his wife
& the Book was only a defence of his conduct in
doing so. Incompatibility of humor is one of those
defects that ought to be discovered before mar-
riage or if it has been concealed be-^{fore} that time the same
prudent management continued after marriage
ought to have the like effect & it is worth any ones
pains for the sake of domestic peace to govern their
own humor at least as well as they did before
marriage voluntary effluency may produce or imi-
tate natural incompatibility of humor & Pride
& resentment may often have the like effect. In
short the causes of divorce would be multiplied

on admitting the force of Meltons Argument
that no marriage whatever could be of any continuance
& a wicked man or woman might be divorced
when they pleased besides divorced by ^{of both}
parties would likewise abound & thus of all
there an easy permission as well as most likely
to grow all no view of temper can be such as to
amount to an Error persona which in the opinion
of all lawyers & casuists is sufficient to void a
marriage contract. If any of the parties before
marriage give a false account of their name
family or estate this voids the contract upon
the plea of fraud & makes a difference of the
person. The party who is divorced if contented may
indeed purge this nullity but if the offended party
insist for divorce it cannot be justly denied Our mo-
dern infidel writers who in every particular encourage
vice & licentiousness of manners content mightily
for divorces being made easy & that marriage
contracts should be made only for a short time In
this no doubt they fulfill the will of an offscoury

as much as when they condemn marriage altogether
but in no higher degree we have hinted already at
some of the inconveniences that must necessarily follow
on the arbitrary dissolution of the marriage contract
which we need not now resume. In forming gener-
al rules the common interest of society & of happiness of a
greater number is certainly to be consulted & although
some particular persons should think the expense to great
unhappiness it is much better that they should endure
it patiently than that the happiness & security of the whole
society should be endangered for that particular case & con-
venience. The interest & education of children the honor
of families & the laws of succession do especially require that
the contract should be for life whatever inconveniences
may take place in a few particular cases. The contem-
plation of this likewise as before hinted tends to mo-
derate the passions & differences of Parties & when
a contract is to be made Prudence requires that
all the possible inconveniences of it should be
weighed before hand; but not that contracts should
be broken on account of inconveniences that ought
to have been foreseen & provided against the law -

imposes upon none as every one enters into this
bond with a full knowledge of its nature &
duration & if they enter into it imprudently it
is entirely their own fault. It is a wise maxim
in the Roman Law "Nulla impediment matri-
monium contrahendum quia non derisum contrave-
sum" After the Business of the parties before
entering into the matrimonial contract to disco-
ver & weigh every circumstance that is of impor-
tance to them & to be prepared against all possi-
ble consequences the law only maintains the
sanctity & obligation of this Contract & binds
the parties to keep it unless in those cases in
which the law itself has declared that the con-
tract shall lie set aside but with regard to those
inconveniences which it was the business of the
parties to provide against the law refuses to
themselves the want of Prudence & will afford you
no relief The impediments of marriage
are either such as are deemed to make the con-

trust at first void or which make it void
after it is entered into Some of these are natural
rel & some of a moral kind The first natural
& legal impediment of marriage is frigidity or im-
potence which renders one ^{parties unfit} for procreation & as this
defect is of such a kind as cannot be discovered
by the parties before the marriage the laws of all
countries in conformity to natural justice uniform-
ly grant a divorce as soon as that is proved be-
ides as force & fraud constitute injuries through
which these intervene in the making of a mat-
rimonial contract they are just reasons of divorce
besides when any thing that is necessary for
both parties to know & which if known would have
been a legal impediment is concealed by any of y^m
till after marriage this as soon
as it comes to be known renders the marriage void
& fraudulent ab initio & consequently is a legal
cause of divorce. we shall afterwards have an oppor-
tunity of treating of contracts made by force
certain grievous disorders or mispratt & incura-

ble disease that are inconsistent with a friendly
fidelity & exclude all hopes of any offspring that
can be expected to live are likewise properly reckoned
among the physical impediments that void the
matrimonial contract. Canero Scrophuly, cutis
Ulcus — & convulsions belong to this class where
the ends of matrimony cannot be obtained the
contract is merely fraudulent & illusory & ought
to be avoided whenever this is discovered. The marriage
of diseased persons to those that are in health
may in fact be resemble the cruelty of Mizerthus
in verget "mortua

"Composui manusque manusque auita ora
" genus " Infancy & Paralysis

are of the same kind as implying the want of reason
& consequently the want of consent for it is a maxim
of nature & of the civil law. "qui non sentit non
consentit" Very advanced age as a infirmity may
appear to be a strong impediment to a marriage
with another in the bloom of life as this is con-
trary to nature reason & the end of matrimony

but avarice has often made & will make many
such matches. The story of Gamary in Maye
Mr. Pope has modernised from Chaucer represents
only the natural & probable consequences of such
such irrational & unequal motives, extreme youth
in either or both the ~~~~~ the parties is likewise
a physical impediment as well as great inequality
of age. Marriage being a solemn contract & destined
to last for life ought not fairly to anticipate reason
or the capacity of Prudence which is so necessary
to deter them in entering into it with

The age at which males are declared capable of en-
tering into matrimony is according to the Roman
law that of 14 years & females are deemed marriage-
able at 12 but these terms though blindly adopted by
most modern nations from the Roman law ap-
pear to be very ill chosen & much too early for
entering into such a contract as matrimony &
very many unhappy & ill-assorted matches have been
made in consequence of this rule by the parties being
under a proper age. The consent of Parents or guar-
dians cannot fairly supply the wants of personal

prudence & natural capacity of choice; besides, as ma-
trimony is a contract which is made in the first place
for the happiness of the parties & only secondarily
for the advantage of those concerned.
They themselves ought chiefly to be consulted & also very
early years of presumed puberty cannot be sugge-
sted that they can give a consent that is pro-
bably rational perhaps some physical reason but
much more probably ignorance & corruption of man-
ners contributed to fix the year of puberty so very low.
The age of 20 or 21 in each sex would have been a
much more just & natural standard of Puberty.
There is a maturity of mind that is requisite for entering
into matrimonial
contract as well as of the Body & this only ought to
be waited for — Boys & Girls of 14 or 12 years of
age ought not even to be permitted to think of marriage
far less to think of entering into that state —
& very good natural reasons may be assigned why
they should not. The children produced by very young
Parents are necessarily very feeble & the natural
growth of the Parents being stopped by immature
propagation very inconvenient & evil consequences.

The Modest of youth may sustain from ^{debauchery} may with equal
justice be apprehended from injudicious & early
marriage. It is therefore a more serious discrepancy
& inconsistency with reason in the Roman law
as well as in the law of all those nations which
have adopted it in this particular that while the
age of Puberality ^{enjoy}
ment or alienation of estates are continued to 21 years
that with regard to marriage in which their
interests & concerns are much more important
than that of the right management of their
estates they should cease at 12 or 14 ———
The Roman maxims with regard to the power
of Parents were very rigid & extended it to a
very immoderate degree but the imitation of
this practice suits very ill with those nations
y^t do not extend y^e power of fathers ^{much} so by a great
deal It is likewise a great error to suppose that
females come sooner to the maturity of understand-
standing than males This indeed is an error
that is not derived from the Romans but

only erroneously imposed in order to defend and
countenance the imitation of their absurd practice -
The Romans expected that the matrimonial contract
should be an equal measure if not altogether an
act of duty & submission to Parents and not a choice
of the parties entering into it & thus accordingly rather
good matches among the Romans which we receive
from our parents & the spirit of the law of England
both before & since the marriage act is likewise very
favourable to this notion ~ ~ ~

Lecture 137th Monday March 7th 23. 1789.

There are many customs in all nations which have no
foundation whatever in reason by which however certain things
continue to be done merely because they have been done
formerly Dr Swift recites the famous maxim "nolimus
legem anglicam mutari" "An excellent purpose in
giving an account of
a maxim says he among these people that whatever had
ever had been done before might be done again without any
regard had to its lawfulness or utility, alluding to the nume-
rous accidents, statutes & customs that so distinguish the
case & circumstances a part of the laws of England."

The moral impediments of Marriage are 2. Prior contract & consanguinity or affinity. As marriage is the union only of 2 persons one of each sex. prior contract of the same kind renders a person incapable of entering into a new one while such prior contract subsists which must be till the death or divorce of the other party with whom it was first made if two persons knowing that they were both engaged in prior contracts of matrimony should pretend to enter into a marriage it would be null & void at once & both parties would be liable to be punished as guilty of adultery but if one of the parties is under a prior contract & enters notwithstanding ^{going into a new} marriage the latter contract would be void at once & the offending party only who had concealed his precontract would be liable to punishment & payment. The occurrence of cases of this nature as well as others which will be mentioned immediately is thought to be a part of the laws of all states & is actually a part of those of not a few that the name of the parties that are to enter into marriage should be published for some time before the contract is solemnized. In order that innocent persons may not be entrapped & ruined by the fraud of others who are already engaged in the marriage

contract elsewhere. The power granted to the Bishops
especially by the law of England — of granting
licences for — for the celebration of matrimony
without publication of banns in the affidavits
of certain persons is very prejudicial to the public though
gainful to the official. The publication of Banns though
an imperfect method is yet the most effectual one hitherto
proposed for preventing fraudulent & unlawful marriages
especially those where one of the parties is under a former
contract. The impediments arising from consanguinity or
affinity is not so obvious all relations of every kind
appear to be prohibited by the law of nature from mar-
rying together — because the affection of parents
& children is quite inconsistent with that affection which
ought to subsist between married parties & even kindred
in the collateral line ought to be prohibited to marry
because one who is to another in the place of a father
or mother cannot at any time be in place of a hus-
band or wife besides conjugal intercourse & familiarity
are incompatible with that reverence which we owe to
those that are in the place of parents & as to
the marriage contract is proper for extending amity

& good will it is better that it be contracted between the
members of different families than that it should be im-
ployed in uniting those who are already united by
blood besides it has been found that the offspring of the
marriages of persons already nearly related is very apt
to degenerate & the history of some foreign families in
which intermarriages of near relations have been very
frequent gives great countenance to this observation the
royal family of Portugal which is now said to extinct
is a striking instance of the truth of this maxim by the
civil law marriage is prohibited to all persons within the
4th degree of consanguinity reckoning from one common ancestor
so that cousin german & even second cousins are com-
prehended under the prohibition The Moravian church extends
this prohibition to the 7th degree of consanguinity reckoning
from one common ancestor & moreover superadds the spiri-
tual relation of God-fathers & God-mothers to the natural
ones so that no two persons who have been godfather &
godmother to the same child can intermarry among y^{ms}
without a dispensation. This marriage of cousins Ger-
mans & all the degrees below that are permitted in
most protestant nations ~~because of~~

The cause which annul or break off a valid marriage after ^{are first} is contracted. Adultery which is a violation of the essential articles of marriage & this has not been the subject of any dispute. Some however hold that even in this case the offended party may purge this nullity by private accomplice but others maintain the necessity of divorce. The canon law & even the law of nature which determine that the guilty party should be punished allow the offended or innocent party to marry again ^{but refuse} to if guilty or offending party this liberty of marrying during ^{the life time} of the party offended. a late law & the famous example of the Duke of Grafton ^{England} has extended the privilege of marrying again to both parties the guilty as well as if ~~as~~ innocent which has already occasioned great numbers of divorces in that country. It is however to be wished for the preservation of the honor sanctity of marriage that neither Legislature may adventure to imitate the licentiousness of that of England in this particular. It was indeed attempted lately in the state of new york but that assembly though by a small majority allowed the privilege of marrying again only to the innocent party.

Willful desertion is the 2^d moral cause that can vacate
a valid matrimonial contract. If any of the parties
willfully & without excuse or necessity withdraw from
the other & refuse to return the marriage is void after
the expiration of such a time as the law determines should
intervene before the notice given to the offending party
the divorce. In some countries this term is 3
years & in others 7 years are allowed to the husband
to be absent on necessary business without acquaint-
ing his wife but if he does not hear from him or
that time after some process & forms & necessary
order he may marry another husband. The dissolu-
tion of a marriage by adultery or habitual desertion
is a known crime against society & ^{ought to be punished} in another man
nor that the lawless methods the damages awarded
by English juries for immoral conversation are a con-
tradiction to common sense & a failure on all public
justice as they hold out the ridiculous idea that
every married woman is only a licensed prostitute
with whom any man may converse with impunity
& that the law can only fix the price that he

is to pay for so doing Sir Richard

in the Office of Waight lately recovered only
one shilling of damages on a case of this kind though
indeed it was a shilling too much as it appeared on proof
that the husband was guilty to the crime of the wife
with a view of making her forfeit a considerable dowry
as she brought to her persons who have been guilty of adul-
tery & each other — an very properly restrained from mar-
rying together because it would tend prodigiously to the
increase of adultery & to the neglect & ruin of children of
adultery could be the means of concluding a lawful mari-
age Some think that persons guilty of Adultery
ought to be allied to many infamous person but mar-
riage is dishonored by being included as a punishment
besides that free consent is essential to it desertion
on the wife may indeed be justified by growing enmity & usage
& danger from her husband & a total enmity or conspi-
ring against the life of the other party must be a
good ground of divorce to either as marriage was
designed for the happiness of mankind & not for
their misery & destruction besides it was expressly
intended that its ends cannot be attained when such

capital money & malice has taken place as on
dangers the safety of the other party. "Immodicabili
vultus infest radendum est"

Concubinage is only a concealed Polygamy & prevails
in the East wherever tyranny & slavery were established
by custom may — reception of female slaves are
ever entertained by men who have many wives & their
progeny become slaves hence it is a maxim of the
Roman law "Partus ventrem sequitur" The Romans
no doubt adopted concubinage from the nations of the
East though they never practiced Polygamy but the
conventions up which they made of the power of
than 700 years after the building of Rome when divorce
was first introduced among the Romans by Scurioncar
a slave who divorced his wife for barrenness but when
the custom was once introduced it soon became common
for the most trivial cause in group of time the women
acquired the same privilege — & could use the same
language as the men in the form of divorce which
was "Res tuae sunt habeto" but what seems al-
most incredible is that women could be married
at one time to no less than 20 several husbands

without being subject to any punishment but any conjugal
affection is indissoluble these could no longer be said
to be married women but some laws are fully as
bad as any customs which we have heard of
The Roman Catholics explain these words "the hus-
band of one wife" which are laid down in the scriptures
as one of the qualifications of a Christian Bishop to
mean only a church or benefice or they exclude their Clergy
wholly from marriage, ^{but the} Canon Law gives a surprising
latitude to that expression for it expressly declares that
if a man have more than 500 Benefices he is not
the husband of one wife in the sense of the church
but is a pluralist but as long as he keeps within that
number he is understood in law to have but one
benefice & consequently to be the husband of one
wife in the sense of the apostle with the like exten-
sive charity & indulgence The Canon Law de-
clares that a woman who has had to do with
more than 23,000 men is a whore which plainly im-
plies that if she has refrained her commerce
within that number she cannot be called just the

envaluedges
The conditions of matrimony have been various ~~all~~
among different nations as well as the form & cere-
monies of contracting it Herodotus tells us that the
ancient Babylonians used every 3 years to dis-
pose of all their unmarried women of a certain
age by way of vendue or public auction those
who were handsome were betrothed off to the highest
^{value} bidder & the money that was raised by the sale of these was
applied to make
to make portions to those who were not handsome who
on their turn were betrothed off to the person who of-
fered to take them with the smallest sum but
this institution supposed a very great desire in the
young women ——— to be married & very
much indifferent with regard to the person yet the
very manner in which the ugly part of their women
were disposed of attesting the form of an auction is the
very same with that in which people of fortune are
usually married in Europe when fortune is prin-
cipally regarded The ancient Greeks did not practise
Polygamy & yet were informed that Socrates
had two wives at the same time when Alexan-

der was in possession of Persia he followed of manner of it ^{country}
by marrying several women & the famous Cato lent
his wife Maria to ~~~~~ Norlenius & afterward
to another of his friends but neither the action nor
the view of Cato had any emulators by the instiga-
tion of Mahomet every musliman or true believer
may have 4 lawful wives & mahomet himself had
no fewer than 10. Married persons have been ex-
empted from certain taxes in some countries & among
the Romans those who had 3 children were exemp-
ted from taxes But the justitium liberorum in the
time of the Emperors was often given to those
who had neither wives nor children Wherever 3
several ways of contracting marriage that were
accounted legal & in use among the Romans.

The first of these
was the most honorable & consisted in cutting a
conferatid cake into two parts which were given to
the parties to eat The ^{second} consisted in giving a sum
of money to the father of it & the 3^d larger by an
legal construction from the parties abating
with each other for more than 10 days Slaves were

~~It is a~~
It is said to marry by the presumption of that mas-
ter but the Roman soldiers had no right to marry
while in y^e service the Roman Catholics refuse y^e Clergy the
privilege of marrying by which means they are more
devoted to th^e Holy See and all the wealth which
they acquire remains in the hands of the church The
English marriage act is a ^{bundle} of inequities & absurdities
by which all marriages are voided that are contracted
by parties under 25 years of age without the express
consent of their parents & guardians & likewise annuls
all marriages that are made by any person not ac-
tually in priest's orders or when the name is wanting or
any of the words of ceremony prescribed in y^e Book of com-
mon prayer ~~~~~ are omitted. now to pro-
vide an ~ irregularity in the form of contracting
marriage by annulling the contract itself is undoing
at least one of the greatest misfortune & the accumulation
of so many millions in one of the common trag-
edies in human life & of so much importance to
the happiness of the parties under this act an
engine of prostitution & seduction instead of a law for
guarding the happiness of the citizens. The

(Hants & Roman Catholics)
Laws of Ireland prohibit all marriages between Protestants
an absurdity that may now be excused to be removed
when Ireland has obtained an independent legisla-
tion. Second marriages were considered as infamous

Mr. McShane has written against them
with great zeal a woman cannot marry twice in
Ireland being obliged by law & custom to burn
herself in testimony of her love to her deceased husband
The Antients in general did not consider 2^d mari-
ages as honorable still, their manners became corrupt
hence Virgil represents Ido as resolved to remain
single in honor of Setheus her first husband.

" Sed mihi uel

" Vel patris impietatem adlegat infelix
Pallentes umbras ante nectumque profundum
Atque puerum quem te uidebat huc iura resoluit.

The duties of married persons arising from y^e relation
contrast chiefly chiefly in a faithful & constant affection
sweetness of manners & a prudent care of their
family watching against all temptation to in-
continence wrangling & mutual provocation in

bearing with the weakness of each other & endeavoring to promote one another's happiness. ^{practise & study} All the virtues necessary to married persons as well as others they ought especially to study modesty & calmness of temper in order to restrain such of the unusual passions as the affairs of this family & the common accidents of life are apt to excite without these virtues a continual jealousy & community

of all things can never be agreeable. The illustrious Philip ^{of De Plessie & his wife Char-}lotte Abelaſſe in their joint last will & testament declared that they had lived together in perfect amity & ~~and~~ never had any difference during the long time of their marriage had subscribed but have known of no other records of this nature more than 300 years ago Sir Philip Somervell-Dunne in Essex caused to be hung up in his great hall a picture of Bacon & placed his defendants to do the like to be ready at all times to / to any married couple

or minors that could declare upon oath a year & a day after their marriage that they had had no difference among them but it does not appear Bacon during so long a period as the institution

has lasted none can be expected to perform the duties
of the married life with propriety & fidelity unless they
have been accustomed to live unchastely before en-
tering into that bond a fornicating Bachelor & a
flying Coquette ought to be married together that
they may not plague two different ^{masters of you} families ^{can possibly be qualified} because of
performing the duties of marriage to an innocent
& virtuous partner Those who live unchastely before
marriage will in all probability live in the same
manner after it & I cannot ^{be otherwise without a miracle} because men cannot
change their inclinations & customs merely by
changing their state in life wicked men may
indeed persuade themselves that they can give over
their vicious pursuits after a ~~certain~~
certain time but such a conceit is contrary to all
reason & experience "All bread is sweet to a whore-
monger says the son of Sarah & he will never
leave off till he die Warrant left & a general
purport of the sex unquestionably hardens the heart dis-
plays a deficiency ^{the taste} of reason incapable of real fidelity
& affection & generally very unfit to be trusted in
common life but far less to be trusted to for the
faithful performance of a matrimonial contract

The practice of seduction always trains men to lying
begging cruelty & every vice of the heart & not only wastes
the body; but debauches the mind debilitates the understanding &
^{renders} it likely to extinguish the moral faculty according to
common adage. "Femina corpus animum vix lumi-
na ——— vocem pollutat annihilat nequit eripit
ortat acerbat" The habit of youth continues to appear
in advanced age & the ugly appearance of a lustful
old man is solely occasioned by his bad practice &
criminal indulgence in youth That man can never
be true to one who has already cheated numbers nor
can he be capable of sincere love who has abandon-
ed & cheated ^{he entices & seduces} all those whom ^{he} that he loved Habitual pur-
suits is indeed the worst preparation for matrimoni-
al faith & exclusive attachment being naturally
a preparation for the contrary Horace takes notice
that from the time that a young dog has learned
to bark at a dog chain in the court yard he hunts
ever after in the woods

"vennatus in quo tempore

"Labrabit in aula

The same in general may be said of youth when
they have once quitted the path of chastity &

Soberly the first step may indeed be difficult & cost dear
but the next will be easier. Men conquer themselves to
use by degrees as the fox in the fable did to the sight of
the Lyon till at last they feel little or no remorse
but with all manner of uncleanness with greediness.
Every

a partner ought to enter into the matrimo-
nial state & thus he ought to be determined not only
by the affections of his nature but by a regard to virtue
& to the public. The marriage state is the state of na-
ture & designed for all men & no man ought to abstain
from it unless he possesses the gift of continence which
alone can make his abstinence from it innocent &
unless he is engaged in such pursuits or placed in
such a situation as renders matrimony impracticable
to him. Those who remain in a single state & at the
same time live in profligation & seduction are the
pests of society & if Eunachism were permitted by
the law castration would be a proper punishment
for such persons men of loose principles imagine that
they can marry when they please because they can
get a female partner of some kind or other but they
do not consider that incapacity in body or mind is they are
perpetually
augmenting in themselves by thus daily ex-

after. In a short time indeed they have neither
health of body remaining nor soundness of mind
By following prostitutes they lose all esteem for vir-
tue & can value their partners merely for bodily
satisfaction. A debauchee is indeed totally incapa-
ble of truth & assiduous being practised in lying & seduc-
tion

~~~~~  
Thus a man be animal like  
a horse or a goat that has lost a great deal of  
that goodness of his nature & become entirely in-  
capable of being either a sincere friend to a virtuous  
man or a faithful husband to a virtuous woman. If the  
females in general were foolish & unintelligent they would  
combine to resist all <sup>such lovers</sup> whoremongers & bludge them for  
want of others to marry some of those whom they had  
seduced. If a man knows for certain that the corrup-  
tion - of chastity would utterly disqualify  
him for ever expecting an alliance w<sup>th</sup> any <sup>virtuous</sup> woman  
It might indeed be some shame to his uncorrupted in-  
clinations but bad men have at least corrupted the  
taste of the females & deprived them of every taste  
of that delicacy which is so proper for their sex  
merely by flattering their vanity & persuading them  
that their charms have power to fix the most



that these Charons have power to fix the most  
wandering affections & to convert the greatest passions  
to constancy. This the females are often weak enough to  
believe & do not find themselves deceived till their  
case is without remedy they are then indeed <sup>convinced</sup> that the fir-  
groom himself alone can spiritually convert a man  
or restrain from his <sup>former</sup> worldly pursuits young men ought  
therefore to adhere to strict chastity & honor if they  
ever expect to be capable of matrimonial faith  
— and able to make  
this address to a virtuous woman on an equal  
footing. The sufferings of men in a celibate life are  
in fact much greater than any that can be ex-  
pected in the state of matrimony & it is more  
cowardice that restrains many young men from  
matrimony they can not venture on a choice for life  
pass y<sup>r</sup> days in doubt  
accordingly they quail & hesitation. It is possible indeed  
that they may not dream of thus wanting cou-  
rage but certainly a young man who has not  
ventured to marry may be lawfully suspected  
of cowardice & has not as yet given <sup>all the proofs</sup> of courage of which  
he is capable fear of want or fear of disappoint.

ment is certainly that which restrains him &  
he remains in guilt only because he wants con-  
rage to be virtuous" And he says

Lecture 138 Tuesday the 24<sup>th</sup> 1789

The generality of married people soon become par-  
ents & therefore ought to be acquainted with & engaged for the  
declension of that state when they have no children they ought  
to endeavour to be contented & on their cares & duties are  
secured they ought to study that they may be propor-  
tionally better managed & attended to at the same time  
they ought to be convinced that a childless state has been  
found by the disposition of Providence to be best for them  
& to beware of envying others who are in a different state from  
themselves for which purpose they ought to consider the many  
griefs which many other people endure from the deaths of  
ten from the loss of their children & that there are many  
people that have children with whom they would not be  
willing to exchange conditions & that for any thing  
they know they might have been equally or perhaps  
more unhappy if it had been their lot to have children



Those who are single have greater ability to be charitable  
to do beneficent actions than those who have children  
a man charity says Mr. Baxter cannot be expected to  
water the Earth when it must first fill a pool. The greatest  
benefits & services for posterity says Lord Bacon have  
been made by those who had no posterity. The persons who  
have no children of their own have a delight in educa-  
ting & doing good to children they may bestow their vacant  
hours & affections in the training up the children of the poor  
or those of some of their own relations. Mitis in the Adulphie  
of Terence proves a tender father to the son of his Brother  
Demus though he had none of his own but his courteous  
maxims of education & his indulgence to the vices of youth  
are ~~not~~ <sup>not</sup> to be approved nor imitated As the human eff-  
spring remain for a long time ignorant & incapable of improving  
themselves much the constant care of others both for their preser-  
vation & instruction in those arts which are necessary for  
life. Nature has plainly imposed this charge upon the Parents  
by that singular affection to their children which she has im-  
planted in them this affection indeed is not peculiar to the  
human species even the Brutes uniformly take care of their

offering a pinch their own appetite as well as endanger  
their lives for their gratification a partridge will throw  
herself in the way of the spaniel in defence of her little  
covey & by counterfeiting the lament & retreating flow  
ly will endeavour to draw him away from her nest  
& a hen though a timid animal will engage the largest  
dog in defence of her chickens but as the affections of na-  
ture in human kind are complicated with moral prin-  
ciple & sentiments none can feel the natural affection in  
its genuine purity & strength except those whose children  
are produced in lawful matrimony. A forswearing Bachel-  
lor is a more beast of prey whom his crimes have de-  
prived of all tenderness he can feel no more compassi-  
on for his furious offspring than the <sup>male</sup> Crocodile or Alliga-  
tor does to the young of his own kind whom he devours  
as often as he can come at them The forswearing Bachelor  
can stand unmoved & see the wretch hanged whom his  
own lust had impregnated & whom his guilty & avowed  
treachery to despair & constrained to murder the fruit of  
his own body to him therefore a parent love & sympa-  
thy must be forever unknown because he has rendered



himself incapable of matrimonial fidelity & conjugal  
affection but professes of honor & fidelity feel the strongest  
attraction of parental affection to them his care are strict  
which to the eye of proficients appear contemptible & un-  
derable they feel & respect the order of nature & love them-  
selves in their offspring on the contrary a white monger con-  
siders his bastard merely as mass of crawling matter or  
a noxious animal which he could crush to death with  
his foot that he may not be interrupted in the pursuits of  
seduction a few years ago a widow in this country destroy-  
ed two Spanish children in this manner for which to the  
dishonor of all law & the reproach of common sense the  
unhappy mother an afflicted spectator of this tragedy suf-  
fered death Had men disguise their lust under the  
mask of honorable love while there real design is death  
& the destruction of the soul & body the matrons of law  
who are generally far enough from being philosophers  
can even are often themselves immortal in this way have  
never yet attained justice & honesty enough to depose &  
punish the original offender & true cause of the murder  
of Spanish children Such a reform if it were to be expected

must come from the understanding & juster affections  
generation. But tho a harsh and formator & his illu-  
did parents are incapable of feeling the joys of  
futures of Parents a lawful parent feels them in expectation  
& would not want the pleasure that he receives from them  
for all the painful care & anxieties in which they en-  
gage him he considers his children as a precious trust  
committed to him immediately by nature herself & for  
his management of which he is responsible to nature  
& to his own feelings he deforms in his children the rudiments  
& first principles of human nature which he  
respects with

& he feels no other  
bounds to what he is willing to do for them than those of  
the boundless affection which he feels for them & so he  
can lose his own rest with cheerfulness to procure theirs  
& feels all their little complaints as much as the most  
acute pains in his own Body his infirmity is exten-  
ded to his children & his partner in such a manner that  
the smallest share of it remains for herself. We shall  
not attempt to defend the affliction of anxious & nervous  
mothers who have often lost their own lives or ruined if



juds of mortal disorders on the course of watching  
over them suffering & dying infants their affections  
are — lively & their wishes for the well fare of y<sup>e</sup>  
children an warm & boundless nothing is too good for  
them in their opinion & they would purchase their  
life & safety at the hazard or loss of their own

"Quod noceat dubii

"Quam sapere aucto

"Atque sit mundus viciis.

As nature has provided for the care & protection of children  
by means of parental affection those who do not feel  
that can never perform nor even learn the duties of y<sup>e</sup>  
situation. The passions when not restrained by laws are  
much more faithful to nature than reason can be  
as well as more uniform certain & permanent in y<sup>e</sup>  
affect. If we were therefore brassy to despise the duties of  
a Parent we would despise them as comprehending  
all those things that a well ordered parental affection  
prompts to as far as is in their power but no succeda-  
num what ever can supply the want of this affection  
a man must not think that he can be led to the  
duty of a Parent by cold consideration & dry study

but only by the genuine feelings of human nature  
he must not think that by reading Aristotle's *oicono-*  
*mis* or Xenophon's *Cyropaedia* he can learn the duty  
of a parent nor must he imagine if by taking up a grand  
Encyclopaedia & following the order of the Alphabet  
of moral Science till he comes to the article of Parents  
he can be qualified for the duties of that relation  
on the contrary he must feel & be conducted & suppor-  
ted by his feelings in the exercise of his duty at the same  
time these very feelings have most decided support  
from reason he knows & is convinced that he is acting  
honorably & properly when he is following the intention of  
nature & taking the strictest care of that trust which  
God has committed to him he enjoys his own situation & relishes  
even the pain to which it exposes him while his moral  
faculty in the mean time fully approves of his con-  
duct & he anticipates the pleasure which he expects  
from the happy success of his endeavours  
for this reason a person of good character & proper feelings  
will not even be offended with the labours & exertions  
or of penitential affliction as they bear such faithful



testimony of the right state of the heart "oh Absalom my  
son my son oh my son Absalom would to God I had  
deed for thee oh Absalom my son my son" As nature  
has imposed the care of children upon the Parents it  
must also have designed that they should assume  
all the power which is requisite for the discharge of  
this trust & that children should be subject to the power  
while at the same time by y<sup>e</sup> tender affection —  
sufficient precaution is taken for children obtaining their  
liberty as soon as they can safely & properly enjoy it & that  
the power of their Parents will be exerted for their well-  
fare as the happiness of their children is that point we  
all good & rational Parents are most anxious to ob-  
tain The degree of wisdom & rational affection in every  
individual parent is the measure of nature's kindness  
for she knows tho' there are very few things in w<sup>e</sup>  
children are more prone to mistakes than in us.  
making the kindness of nature in this particular.  
As it is the intention of nature that mankind should  
spring from one another & be connected by the charities  
of kindred & descent & the ties of gratitude —  
& affection we might not to doubt that nature's  
choice of our parents is made with the wisest design

tem. in respect to us & that nature has given to  
each of us such parents as were the most proper for  
us. Children are very apt to wish & in nothing  
perhaps are their wishes more childish than that nature  
had given them parents who would be perfectly indul-  
gent to their inclinations at circumstances which when  
it really happens, proves the utter ruin of many chil-  
dren. The want of judgment in our ~~immature~~ years  
and the tenderness of the parental affection  
are the two great foundations of the parental power  
which must necessarily be absolute as long as the  
immaturity of judgment lasts & ought to be supported  
by the child as the deference of nature & because it  
is accompanied with tender affection which is the best secu-  
rity that could be provided against any abuse of it the  
same considerations show that this parental power can-  
not be extended to any of the more grievous punishments  
such as cannot be consistent with parental affection  
nor suitable for the purposes of education & salutary  
discipline far less can this power be extended to the  
punishment of death or the degradation of slavery  
though indeed these notions prevailed among the



ancestry who seem to have confided children  
property of y<sup>r</sup>. parents rather  
as the absolute <sup>to y<sup>r</sup></sup> as a trust committed to them the  
parental power belongs alike to both Parents though  
as the father by the disposition of nature has the govern-  
ment of the family in general committed to him he  
must necessarily be superior in the exercise of it  
but on his absence or death it devolves entirely on  
the mother. We neither deist nor philosophize to  
found the parental power merely in generation or  
to subject the human fetus to the law of property  
children are evidently a trust or depositum & the  
parents have from nature the exclusive privilege  
of being their trustees. The Bodies & souls of children  
are equally the object of the divine power & are des-  
tined to grow up so as to arrive in time at the  
same condition of life & equality of right with the  
Parents though on account of their weakness & the  
imperfection of their faculties they must be for  
some time supported by the care of others or will  
be subject to their power & controlled by their will or  
wisdom till their faculties are gradually develop-

ed & they become fit to be trusted with the ma-  
nagement of their own rights & properly children  
may have properly & rights independant of their Pa-  
rents & the Parents having no other kind of power  
over any good <sup>rights</sup> that are conveyed to their children  
by others than other tutors or curators when parents  
abandon the guardianship of y<sup>r</sup> children which was  
committed to y<sup>r</sup> <sup>nature</sup> either by ~~exp~~ expecting or by neglecting them  
the likewise forfeit the whole parental power which again  
is acquired by any one who actually takes care of such  
neglected children Parents are most  
fairly obliged to provide for their children all  
the necessities of life & even to improve their condition  
as much as they can being connected with them by  
affection they are a part of themselves & they ought  
to do every thing for their inebriates that a rational  
man would be disposed to do for himself but the most  
important part of the duty of <sup>Parents relates</sup> to y<sup>r</sup> childrens education  
& in that way can to form their minds & manners to  
the love & practice of all the virtues by instruction  
& example Parents are indeed very inequally qua-



Useful for this business though for the most part, <sup>equally</sup>  
confident of their own skill & capacity may those  
who are least qualified are often the most confident  
& those uniformly do best who are most diffident of  
themselves. Pride & ignorance are the great causes  
of all the abuses of parental power as well as of  
many other errors in this matter. But the success  
of every Parent in the education of his child will  
always be in direct proportion at least in early  
years to his own advancement & progress in virtue &  
wisdom. As the Parent can ascend no higher  
than the fountain from which it flows & if Parent  
cannot possibly teach his children any thing which he himself does not know but as the  
manners of children are commonly formed by ex-  
ample much more than by precept the best thing  
generally that a Parent can do for the right education  
of his children is to be exceedingly attentive to his con-  
duct at all times. but especially in their presence  
children can understand the language of the passions  
& interpretation of natural signs long before they  
are able to comprehend words & sentences & Parents

ought not to be forgiven when they discover the  
origin of their own disorders in their children. Juve-  
nals is of opinion that Parents ought to restrain y<sup>m</sup>  
selves on y<sup>e</sup> account in y<sup>e</sup> origin in the same manner  
as they do in that of their superiors "maxima debita  
pauca reverentia" But how shall parents gratify  
thos who have not yett learned the precept of Py-  
thagoras we mean to cure themselves & be the first  
occasion of exciting improper ideas or irregular emo-  
tions in a young mind or to show the first example  
of irrational conduct are matters which if properly  
weighed will be found to be most contrary to parental  
affection yet many parents are so negligent in this  
particular that they often chastise with resentment in  
their children those very vices which they have learned  
from themselves the better way surely would have been  
not to have set them the example the first instance  
that some children give of their ingenuity or discern-  
ment is by Accriminating their parents & pointing  
out the like faults in them for which they suffer  
chastisement but a prudent Parent will take



can not to give her children any opportunity of  
persecution in this kind <sup>Sanctus says Curo</sup> those ~~people~~ <sup>people</sup> should have a  
great deal of integrity & innocence in themselves. Chil-  
dren who have seen nothing but orderly living & have  
been kept strangers to noise clamour & passion will  
of course be ——— far more tractable than those  
who having been witnesses to perpetual quarrels are  
easily induced to take a part in them & to indulge  
their caprices without restraint according to the ex-  
ample of their natural teachers children ought to be led  
to take notice of the beauty & dignity of a much  
& regular conduct of the advantage of ready discom-  
& the ugliness & disagreeable consequences of ind. pur-  
sue disobedience & resentment they ought also to  
learn that they ought not to expect to be always  
gratified & that there are many things which they  
may desire which however it would be utterly  
improper & hurtful to grant them & that by freely  
yielding up their inclinations to the will of their pa-  
rents they may expect the greatest favour & gratifi-  
cations & if nothing <sup>light</sup> ~~that~~ flows is to be got by ob.

Many a disobedience to their Parents are not to  
alter their conduct for their humors.

" Porcage

"

On every occasion of giving instruction to children  
Parents ought to remember that they will be much  
more attentive to the manner in which they are affected  
than to any thing that they can say to them or the  
language if it <sup>intelligible than</sup> is much more <sup>than</sup> that of reason  
children are much poorer able to comprehend it than we  
are aware & may feel all the effects of our sentiments  
when they can give no account whatsoever of the words  
in which they were conveyed if we give children to  
understand by y<sup>e</sup> manner - & behaviour that we con-  
vey what we are saying to them to be of great im-  
portance we may expect that it will have more  
weight with them. The practice of dressing chil-  
dren who in small matters & often meant only in  
jest has a most pernicious  
effect upon them as they are commonly able to  
despise the fraud in a very little time & indica-  
tion to gratify it in their turn upon their Parents



as on their children but Parents lose all their cre-  
dit & authority w<sup>th</sup> y<sup>r</sup> children from y<sup>e</sup> moment if any  
of y<sup>r</sup> little flaws  
are discovered by them & it were much better oftentimes  
that they said nothing at all to their children than  
to amaze them with false accounts & ridiculous sto-  
ries. The seeds of lying dissimulation & suspicion  
are much increased by this mismanagement & children  
are soon led to conceive it to be an accomplishment  
to be able to impose on others but instead of leaving  
them to find out every thing for themselves accord-  
ing to their own wild counsel Parents ought carefully  
to anticipate their curiosity & to inform them of the  
great lines of their duty as well as of their in-  
trust original Let it not be said that chil-  
dren are apt to conceive false opinion of these things  
when told <sup>at first</sup> ~~by~~ that therefore they ought to be let alone  
the first notion that are formed on these subjects by  
young minds are not more absurd than those  
of older people when the subjects are equally new to y<sup>m</sup>.

Lecture 139 - March the 24 1709

In very many cases erroneous opinion must neces-

uly made two or three, acquiring a great many ideas  
e learning to compare them together we correct the errors of  
our first conceptions young children & I will remove every thing  
that they are likely to be a body & to be endowed with bodily  
properties but the afterwards learn by comparing the other  
properties of certain substances with those of Body that it  
was impossible that their first conceptions could be right yet  
the erroneous opinions of the child are necessary to lead to the  
sound notions of the man There is an art in thinking  
as well as in all other things & in all arts we must  
make many blunders in the beginning & we learn every  
art by correcting the blunders that we formerly commit  
a few things only are necessary to be instilled into the minds  
of children in their tender years such as the Being of God  
his power & goodness their own late original the certainty of  
death the guilt of disobeying their Parents & the reality &  
force of their love to them & these are almost all the subjects  
that need to be exposed to their understanding for a consi-  
derable time & when they are well grounded in these their  
own curiosity & questions will lead to many collateral  
truths as well as to much clear conceptions of what they  
have learned what is of most importance is that child



don should fully understand that their Parents are deeply  
in earnest & have the most firm belief of what they say  
to them for if they ever suspect that their Parents are not  
in earnest their instructions can have little weight after-  
wards The change of the greatest importance to make  
children sensible of their own weakness ignorance & the need  
that they have of teaching as well as the ability of their  
Parents to give them good information The greatest trial  
of the Prudence of the Parents is in which the greatest part  
of them commonly feel appears when their children are sent  
to school & put under the direction of another Teacher on  
this occasion the most part of Parents thus themselves make  
more childish & foolish than the very children that they  
send to school Instead of telling them that they ought  
to obey & obey their master & that they will be chastised  
if they do not obey him Parents are wont to insist of  
children to inform them how their master uses them &  
to inform them that he has no power over them & that  
if they think that he uses them hardly they will be  
taken from him & placed more agreeably to their inclinations  
now by this childish management of Parents many chil-  
dren are taught to hate & distrust their masters before

They know any thing of them & if he offers to ches-  
tise them for their fault they run away to their too-  
ly Parents who are ready to swallow with greediness  
any account of his behaviour that the children are capable  
to give them & to gratify their indolence & spleen but  
if most of Parents had not an insatiable mind of going to  
School as the children which they find they would tell them  
that they had committed to their master their whole au-  
thority over them & that it would be necessary for them  
to submit to his direction & that diligence & obedience &  
good behaviour were the only means to avoid chastise-  
ment & that they ought to make no complaints but  
to consider their subjection to the discipline of the master  
to be necessary & unavoidable in order to their attaining  
knowledge & being devoted in the gratitude of their duty  
but on account of the foolish conduct of Parents most  
children are entire strangers to application & must  
not be urged to it by the master for fear of offending  
the Parents & from the same cause we sometimes see  
the feminaries in which infants are to be found  
above the year of Puberty whose sluggish minds



have never been excited to activity by the grasp of  
mastery desire of honor or the fear of disgrace or chal-  
lengement & who pass thus on in idleness because they  
know that application is not necessary in order to please  
their Parents & the master can always be blamed if  
they make no progress in learning but the human  
mind will never acquire any strength or firmness  
when it has never met with resistance nor felt the  
grasp of mastery & it is to the want of this that we  
ought to attribute that weakness of mind & want  
of attention which is so often discerned in youth for  
this reason a child who is first early at a distance  
from his Parents & exposed to all the consequences of  
his own behaviour who has his indolence whipt out of  
him by his master & his influence & all breeding by  
his companions has an infinitely better chance of ac-  
quiring just notions of things & a capacity for the simplest  
& steady study than when he has always his mother within  
call & can go whumping to her with every complaint  
whether against his master or his companions. a Boy

who feels by experience if he must act for him self —  
or abide the consequences of a contrary conduct will sooner  
acquire manly sense & constitution than those in a different  
situation & will conceive an ambition of excelling his com-  
panions in knowledge or will or strength or dexterity  
& of making his way in the world By the exertion of his  
own faculties instead of depending on the favor or correcting  
the assistance of others These children who are in the prac-  
tice of governing their Parents at home by means of ob-  
sequancy & flattery will naturally endeavour to govern  
their masters at school by the same infant in behaviour  
They are told perhaps by their selfish Parents that it is not  
very necessary for them to study & that they may learn as  
much as others in a very little time & without giving  
themselves much trouble & the parents allow them to  
steep what study they would be employed in in order  
that they may get as little trouble as possible now if  
children are not actually spoiled & rendered totally  
useless by this management they may be supposed  
to have something uncommonly good in their dispositions &  
their Parents must lose a world of Pain which they  
have labored to spoil them rational Parents will always



find their children to such masters in whom they  
have entire confidence & having done so they will  
teach them to esteem & even their master by giving  
them to understand that they do so themselves. They  
will likewise suggest his authority & second his admo-  
nitions & in so doing they will most effectually sup-  
port their own. Those Parents who teach their children  
to despise their Master & to inform against him soon  
find themselves as much despised as the master & the  
children insist upon being tried at home as well as at  
School & the fear of violence & insolence shows ap-  
pear by this hopeful management. The only chance that  
many children would have of receiving & grasping by a  
good education would be to lose their Parents as soon  
as they went to school & to fall under the care of some  
inferiour persons who would not mind their whimping little  
blame them to perform their tasks & submit to salutary  
discipline. Parents ought never to expect from their  
children any excellencies which they cannot discover  
in themselves. Their examples & their reinforcement of  
the masters instructions & authority ought to be of

great use to their children but at present it is a  
great deal if they do not do <sup>excessive</sup> harm to their children by en-  
couraging them in indolence & idleness & disobedience  
The very rare that these habits are ever put off what  
are contrived & encouraged in youth the extravagant  
expectations that most Parents are apt to form of the  
proficiency of their children is totally incompatible  
with that idleness & selfishness in which they would  
have them indulged but nature takes its course & we  
find that those Boys who are much indulged are  
perpetually Boys & commonly as destitute of prin-  
ciple as they are of great capacity & application.  
Chastisement is often necessary even to the best of children  
but in their parents are apt to be negligent or to follow  
their own humor or resentment rather than the child's  
demerit & when children offend thus they easily  
contrive to get out of the way till the passion of  
their Parents is over that no chastisement is to be  
feared however much was desired to be subject to  
their impetuosity or to be delivered from chastening  
them by their crying is to most Parents the begin-



many of sorrow with respect to their children because  
as soon as they feel their influence they will throw  
of all restraint & do whatever they please & as foolish  
children & indulged children are necessarily indolent &  
ignorant these qualities continue to augment thus their  
own & bar all hopes of reformation nearly they  
lead to misery or to crimes that suit them off in the  
middle of their days. To indulge children early in  
the use of money is extremely dangerous & that moral  
indolence & aversion are thereby created & perhaps fixed  
as permanent & spreading parts of their character by  
this conduct children ought to be taught early to con-  
sider honor as a most valuable acquisition & to be more  
pleased with deserved commendation than with pecuni-  
ary rewards. They ought to be led to observe the ill consequen-  
ces of idleness & disobedience in others & taught to imitate  
the best example & to resemble those children that are  
most attentive to their duty. To hear their Parents  
talk with admiration of virtue & never on the advan-  
tages of virtue & knowledge is likewise a great help  
to children & when they are pressed to sleep bad con-  
pany or to give no account to their Parents of the

manner in which they have spent their time  
all hopes of amendment are at an end If they have  
no delight in the company of their Parents or of  
children that do their duty it is an exceedingly bad  
omen when children are permitted to reply to  
their Parents & to speak as long as they please the au-  
thority of the Parents is at an end & the children will  
soon after have their own way & if the Parents allow  
themselves to favour or justify their  
word or to break the sabbath day their children will most  
readily imitate their example & all reproof must be in  
effectual when it is not supported by the example of the  
reprover In order to have children well behaved Parents  
ought to put themselves under the strongest restraint that  
they may learn nothing that is bad from them but  
when they allow themselves liberty they will always  
find that their children will imitate them & perhaps  
soon go beyond them in these indulgences The fami-  
liarity of Parents with their children contributes very  
much to the extension of weakness & authority The hear-  
ing of Profrum conversation & the knowledge of  
the details of vice are conveyed highly pernicious  
as children are very often led to crimes by mere curiosity



& will not rest till they have been fully informed  
of what has been imperfectly told them when Parents  
have glaid their children under masters in whom they  
have confidence they themselves ought to avoid inter-  
fering in the pursuit of their studies & ought only to  
inculcate the great duties of morality & recommend <sup>arbitrary</sup> compli-  
ance & obedience to their masters. To be under a government  
in youth is the best education for a free people because  
none can ever be fit to rule or command who have not  
first learnt to obey. Parents may sometimes independ-  
ently tell their children that they are not destined to any  
of the learned Professions & that therefore it will be  
useless expence for them to apply to their studies. This  
is exceedingly pernicious as it damps the spirit of arti-  
city application & ambition & renders their attendance on  
the means of education in a great measure useless to them.  
every Boy ought to be told both by his Parents & his  
masters that he ought to apply to every Branch of  
learning with as much diligence & vigor as if his  
future honor & happiness & happiness absolutely  
depended upon it & without this it is useless to ex-  
pect that he will give himself any trouble or  
~~harm~~

have any tolerable sense in what he finds what  
Parents expend upon children who have no stock  
or fund of their own is justly confirmed to be pro-  
nation & should be exact in parents who are not  
in very great distress to charge food clothing & neces-  
sary education as a debt upon their own child in that  
if the Parents are in great distress or if children have  
a stock derived from some other person the prudent  
expenses bestowed on their education may be placed in  
an account with their children and exact  
payment insisted on children under an bond to make  
payment either by their labour or otherwise although  
therefore we may justly presume from the affection of  
Parents that they acquire & augment their private  
fortunes for their children as well as for themselves  
yet children ought not not to consider themselves as  
less bound to gratitude on that account Nor the more  
firm & strengthened that any affection is & the more  
duly that it is rooted in a person rather the more  
it is to be valued & the stronger is our obligation to  
gratitude for that Parents may acquire by civil laws  
a greater power over their children as that law commits



power to any magistrate & civil power having different  
foundations & greater ends extend beyond the parental  
& in the same manner a child may be said to be an  
officer that shall submit to Parents to his power in which  
case the civil power should be so exerted as not to in-  
terfere or interfere with the natural & the Roman  
maxims concerning the Powers of Fathers over their  
children would not allow a father to show reverence  
to his son even when consul & therefore the son was  
obliged by way of temperament very by alighting from  
his horse & allowing the father to ride his father  
with reverence instead of receiving any from him the  
political power being here obliged to submit to the  
paternal as the civil & primitive one

primitive one Children when come to age  
are all reverence & grateful to their Parents not only  
in return for kindred which place any duty of  
themselves can sufficiently compensate but also from a regard  
to God by whose Providence it was ordered that we  
should descend from such Parents & be united with  
them in ties of blood & natural affection & an  
habitual reverence from our cradle that in order

that Children may receive a honor that Parents  
from a sense of duty when they come to be of age they must  
have been accustomed to it in their minority & must  
have learned it by habit & necessity before they could  
be acquainted with the reason of it. If children are not  
formed to obedience & orderly living in their tender years  
there is very little hope that they will practise it  
when grown up & when things happen otherwise it  
will be reckoned an extraordinary phenomenon & out  
of the usual course of nature but in so far as children  
are capable of thinking they ought to consider the  
care & care which their Parents have bestowed on  
their support & education & the natural affection is  
they have for their willful as motives to obedience &  
gratitude on their part they ought to consider that it  
is according to nature that they should be guided  
by the wisdom of their Parents till their own  
faculties come to be <sup>in</sup> firm & stable. Order is the life &  
soul of society & this cannot exist unless there be  
some to obey as well as some to command now Parents  
by the destination of nature as well as by their strong  
affection & the maturity of their understanding being



The most proper person to command & direct  
their children they ought to reward their honor &  
credit as well as their duty to obey them. The Station  
which their parents occupy by the disposition of nature  
they ought to consider as the debt of their reverence  
& the ground of their obedience as well as the personal  
qualities & actual benefits of their Parents themselves.  
Parents are to y<sup>e</sup> children under age in the place of God  
& its will & appointment by committing them  
to the care of their Parents that they should be subject to  
them so that children are guilty of robbing the autho-  
rity of God in the persons of their Parents from whom  
they receive y<sup>e</sup> communication <sup>it</sup> of the will of  
God communicated in the manner they testify such  
a gross & improper of mind as would very probably lead  
them to resist the will of God communicated in any other  
way children are ready to lay hold of the personal  
weaknesses of faults of their Parents as an excuse for  
their own disobedience but they are not so ready  
to forgive their own faults which makes them stand in  
need of chastisement but they ought to remember  
that it is not the personal character or qualities <sup>of their</sup> Parents  
that give them a right to command them but the

destitution of nature & the necessity of order in  
every society. Children ought not to imagine if it be-  
longs to you to <sup>command any</sup> body far less than Parents but that it is  
their honor & interest to obey those whom nature has  
set over them & who are answerable for the conse-  
quences of their obedience as they themselves are an-  
swerable for the consequences of their disobedience. Besides  
children ought to remember how much their parents have  
incurred from their childish follies & perverseness & if  
they are stung in the face of gratitude & justice as well  
as by reverence to the order of nature to bear with the  
petulant humors & perverseness of their Parents & never  
to consider themselves as on a level with them nor at  
liberty to deal with them or to answer them in the same  
manner that they might lawfully do to their equals or  
inferiors all their honor & duty lies in respecting & following  
the appointment of nature & not in maintaining the jus-  
tice of their cause against that authority which Nature  
has set over them. Hence thy father & thy mother is  
the voice of nature & ought to be obeyed no less than that  
of revelation & the example of Noah's two eldest chil-  
dren uncovering their fathers nakedness in such a  
manner as not to hurt & removing the authority of



(drunkenness sufficiently evinces  
their father even when his reason was disguised by  
that the faults of Parents afford no sanction or allow-  
ance to irascence or disobedience in children if a child  
indeed was common did by his Parents to commit a  
crime against nature for the interests of society he ought  
not to obey them as the authority of nature which forbids  
such crimes is original supreme & eternal & consequently  
inconsistent with the authority of the Parent which is only  
delegated & temporary; but a child must be come to  
age & be fully aware of the fact before he ventures on a  
deliberate instance of disobedience to his Parents even for  
conscience sake Children ought likewise to consider how  
blatant orders in all societies & how great peace &  
happiness infuses upon every thing that is ordered by those  
who have a right to command is immediately com-  
plied with & carried into execution by those  
whose duty it is to obey on the other hand even children  
may be sensible of the manifold mischiefs & disor-  
ders that must take place in a society where every  
one insists to command & none will consent to obey

Lecture 140<sup>th</sup> March 25<sup>th</sup> 1789

The obedience of children to their Parents ought  
not only to be constant & perpetual but likewise cheerful

& readily because the mind of many good actors is much  
defused & spoiled by their being down with a bad grace  
or with much contention murmuring & repining. A forced  
& sad obedience is as disagreeable & irritating to Parents  
as the most positive disobedience because it shows that the  
heart is wrong & that the inclination of the child is not on  
the side of his duty. Besides a forced & grudging obedience  
can no more be permanent than it can be amiable  
& it is not probable that children will do any thing  
well or to good purpose when they do it unwillingly against  
their will. The sort of obedience can neither be agreeable  
to justice nor excite gratitude. When children are to choose  
their profession or their Partners for life they commonly have  
need not only of all their own wisdom; but of that of their  
Parents who must be highly interested in their establishment  
for life. The profession which a child is to embrace & to de-  
pend on as a provision for life & the foundation of a good  
character in discharging the duties of it ought to be at  
once suitable to his education his condition in life his con-  
stitution & abilities as well as to the joint inclination  
of both the Parents & the child. now it is the office of  
Prudence to make all these to coincide as otherwise



the child embracing the profession that is concluded on  
can neither be for his interest honor or happiness nor be  
tho' of the Parent & Person can never be successful in  
a profession which is not agreeable to his inclinations  
& if he wants education & abilities that are necessary  
for succeeding in it his embracing it must be left to ruin  
to him. When Parents & children duly consider these  
things with wisdom & moderation they will probably  
come to agree upon the profession that is fittest to be  
chosen but things will be much easier if the father does not  
insist much on his authority & if the child is not too  
much influenced by ignorance vanity whim or fancy but  
when both parties submit to reason probability & the fit-  
ness of things the case of the marriage of children is  
still more delicate than the choice of a profession as the  
tender sentiments & affections of nature as well as their  
moral & personal interests is concerned in it In the choice  
of partners for life Parents are apt to be much influenced  
by considerations of gain or convenience & young people  
by a regard to personal qualities but as both these ends  
are desirable they should both be kept in view in

such a degree & order as is suited to their several  
importance. Matches made for mere gain or con-  
venience are not likely to be productive of much friend-  
ship or happiness to the parties & matches that are  
made from a mere regard to personal qualities es-  
pecially if they are only of a superficial nature with-  
out convenience are not seldom productive of disap-  
pointment misery poverty & vexation & mutual  
upbraidings now in order to prevent both these  
kinds of evil consequences it is best that the parties  
be not too young nor enter too much haste to enter  
into matrimonial engagements but that they may  
be tolerable judges of convenience as well as possessed  
of affection & esteem for desirable personal qualities  
if virtue is not the chief of these qualities that are  
sought & regarded in marriage the rest will be of  
very small account Beauty soon fades & comes to  
be as familiar & little regarded as a statue or picture  
that we have often seen. Wit again soon irritates  
a becoming offense but mildness & good nature are  
next to real virtue of the greatest value Fidelity



a mutual affection are necessary to render the marriage state happy or more capable of being so now these alone are sufficient of fidelity whose affections are disengaged & not extinguished by curiosity & seduction when marriages are not made too early or rashly & when a due regard is had to all the ends of marriage they will have the greatest probability of being happy men as well as agreeable to all the parties concerned. A Parent can have no authority to impose upon a child a partner for life contrary to the child's inclination & on the other hand a child ought not unless from necessity to oppose the will of his Parents by a choice that is disagreeable to them when children arrive at the year of maturity the absolute parentate ceases by the law of nature, its ends being already attained; but it ought to be followed by reverence & gratitude on the part of the child to such a degree that if possible the Parents may never offend that it is expired Voluntary duty & honorable deference in children to the will of their Parents is at once profitable &

honorable to the child as well as agreeable to the  
order of nature & the interest of society & this  
voluntary obedience being prompted by reason &  
gratitude & not proceeding from necessity is much  
more agreeable to Parents than all the obedience  
of children. Children owe subjection & obedience to  
their Parents as Heads of the family in which they  
live even after they are arrived to the years of matu-  
rity as there is the same reason that there should  
be a supreme power in a family whether it consists of  
infants or adult members. The deference & obedience  
which children owe to their Parents in an adult  
state ought to be prompted by a sense of duty & grate-  
tude as well as performed with cheerfulness & readiness  
remaining in that family in which nature produced  
him & receiving the same authority that watched over  
their tender & helpless years they ought to demon-  
strate their sensibility of the Promises that they  
have received & never think that they can request you  
except to their own children to whom they ought



to be paid in kind when natural duty & filial ordina-  
tion is supported by reason it ought to lead children  
to such a conduct towards their Parents in mature  
age as they have deserved towards themselves in in-  
fancy & childhood. Young Storks support their aged  
Parents whom they have their name in our language  
from the Greek word *Storge* which denotes the affec-  
tion that is proper to Parents & children By the  
law of antient Ethiopia it was a capital crime to  
kill a Stork or these people were willing that  
their children should have as many examples of  
right affection & conduct towards their Parents  
continually before their eyes as <sup>was possible</sup> these animals have  
likewise been well treated in many other nations, not  
only because they destroyed noxious insects but  
from their affording in their conduct to their Parents  
an excellent lesson of filial Duty. A Family is a  
society governed by one or more heads & consisting of  
an indefinite number of members which are connected  
together partly by blood & partly by contract over all  
which the authority of the head of the family extends

did according to the relation which they severally  
bear to him the wife E. G. is governed in virtue of  
the matrimonial contract which as it implies a  
participation & communication of rights & property gives  
her likewise a share in the government of the family  
at all times & the whole of it on the absence or death of  
the husband The children again are governed in virtue  
of the Parental power which is constituted by nature  
itself & rendered absolutely necessary by the im-  
mature state of the families of the children as well  
as by their weak & helpless condition but besides  
these there is in many families another class of  
members who are constituted such by a very an-  
cient power of civil contract & who become members  
of the family by stipulating to perform certain services  
for the general emolument of the family under the  
direction of the head in consideration of certain rewards  
supposed to be proportioned to these services & which  
are prompted them on that account by the head of the  
family when mankind come to be considerably



multiplied there must have been many among  
 them who had no other fund of support than their  
 own labour & likewise there must have been those  
 of greater opulence who for <sup>their own ease</sup> & convenience would  
 stand much in need of the labour & service of others  
 now if these two classes of people had always continued  
 & separate from each other it would have been absolutely  
 ruinous to both as the rich would have found that  
 their property was totally useless to them & that they  
 must soon have lost the greatest part of it by their  
 not being able by themselves to guard & to improve  
 it on the other hand most of the poor must have  
 perished for men want not being able to find the  
 means of subsistence by y<sup>e</sup> labour but the mutual  
 & pressing necessities  
 of these several orders of men must necessarily have  
 brought them together in the very early periods of society  
 in order to avoid common ruin & to attain mutual  
 convenience now in this case the poor could not cer-  
 tainly do better for themselves than apply to the rich  
 who were able to furnish them with means of subsis-  
 tence in that accommodating themselves in the least

@ the rich on their part could have no other resource  
than apply to the poor who were able to labour in  
order to assist them in guarding & improving their pro-  
perty & for performing such services for them as  
might render to them a <sup>less</sup> ~~less~~ <sup>condition</sup> ~~condition~~ comfortable  
The necessity of a number of hands for extensive undertakings  
would make the property of the rich to be quite cumbrous  
& absolutely unmanageable to themselves & the wants  
of so many poor must have soon put an end to their  
lives unless they had found relief from the abundance  
of the rich but as these two orders of men are naturally  
independent of each other the poor on the one hand could  
not expect that the rich would support them out of  
their acquiescence for nothing nor could the rich expect  
that the poor would assist them in their labour without  
an equivalent The most obvious reason of necessity  
therefore as well as the sense of mutual necessity  
must have united these different orders of people  
by a mutual contract or stipulation <sup>thence have arisen</sup> the order of servants  
& thoughts of masters & the civil contract is



next to the institution of matrimony & government  
is of the most extensive & important force to the interests  
of society though the transactions under this civil  
contract have been always too little noticed in the po-  
licy of nations - & the transactions under it even  
in the best governed countries continue in a great  
measure to be regulated by natural maxims or by  
the will & interest of individuals instead of being the  
object of public legislation & regulation now the maxims  
of both parties must have given birth to the civil  
contract & the rights & powers of masters & ser-  
vants must have been limited & defined by the terms  
of the contract which constituted the relation between them  
now as nature has produced men very unequal in the  
possession of the means of subsistence as well as in those  
talents that are necessary for acquiring these & there-  
fore has endowed them with very unequal degrees of ability  
activity ambition & desires & capacities of application  
this inequality which is perpetual necessity appears  
to have been designed by nature as a law of gravitation.

men in order to bring & keep several millions  
of souls together by means of their common in-  
terests & conveniences & necessities so that it seems  
intirely analogous to the law of gravitation & cohe-  
sion in the world of Bodies accordingly this inequality  
in the span of all uncom order conveniently rules  
through government & social happiness because  
it produces persons who are fitted by nature &  
destined by it to all the different departments &  
offices of society & for the disposing & obtaining these  
in their proper places & in such situations as enable  
each of them according to their capacity to fulfill the  
different ends & offices of society for which they are qua-  
lified by nature if all men were indeed by nature of  
equal talents & capacities & with equal degree of am-  
bition & activity no society whatever could possi-  
bly be formed out of them nor could the world  
have been organized even into families because all society  
employing subordination the higher departments of  
it would in this case have been universally coveted



& the lower order of officers in Society universally <sup>=ated</sup> regarded  
& ~~despised~~ so that there would have existed that  
dream which so many weak people of late have fos-  
sibly hoped to realize among us we mean a society  
of men naturally equal in every respect & a govern-  
ment consisting entirely of governors but by the  
law of nature such a society must be the most  
fragile & perishable of all others that are con-  
ceivable & indeed could not possibly survive any  
longer than a head can do without a body or a  
body without a head to both of which it may be most  
justly compared in different respects If mankind  
were so constituted by nature as many wild & ig-  
norant people suppose all society union & govern-  
ment would be utterly & eternally unobtainable  
but nature ever kind to her offspring has ordered  
matters in a very different manner by enduing  
mankind with very different talents inclinations &  
dispositions & determining them to very different pursuits  
& thus not only by the difference of their inclinations &

capacities but by the necessity & vanity of the  
circumstances in which they come into the world in  
consequence of which nature attains her ends with  
certainty in the main though it is vainly impeded  
& retarded by some political constitutions & aided &  
supported by others

Lecture 141 March the 25<sup>th</sup> 1709

A family exhibits the most perfect ~~system~~  
pattern of a State as containing different orders  
who have their several rights powers & duties  
<sup>who</sup> defined by the constitution of the family & all depending  
to its interest & emolument. In a family likewise we dis-  
cover a just subordination & different distinctions both natural  
& civil as well as different offices proper for the head & the several  
members we will have occasion by & by to show that all these  
are equally necessary in a State or political society. In a fami-  
ly the head is defined by nature to command & direct & the  
several members are defined to obey & cooperate under his di-  
rection for the common benefit & emolument of the whole in  
which the interest of all the different members is necessarily



comprehended & this common interest depends not only on the capacity  
& inclination of the head to command but on the fitness of the  
inclination & promptitude of the members to obey & to execute  
the orders that are given by the head or governor. The most  
obvious likeness that is generally made use of for illustrating  
the nature of a family or state is that of the human body  
which being the work of infinite wisdom must be conceived to  
be exceeding fit for accomplishing the purposes designed by it  
now in the human body there are evidently parts above other  
parts & a different & decided determination of each of the mem-  
bers to its proper purpose & to no other & all this produced by  
nature itself & designed for the instrument of the whole. For it  
likewise we discern a subordination of different parts to each  
other & a cooperation both of the equal & of the unequal parts  
to one common end & under one common direction & govern-  
ment now this order & disposition of equal & unequal parts &  
their useful adjustments to each other as well as their necessity  
each in their order to promote the good of the whole is so neces-  
sary & agreeable to the intention of nature that the altering or  
dislocating any of these parts immediately produces pain  
& tends to dissolution nor can the pain be removed till the parts

are again referred to that order & position in which nature at first placed them an inequality for executing the functions & for attaining the ends of our nature is likewise the necessary consequence of such dislocation. To prevent this therefore the rights & claims as well as the duties of all the members of a family are necessarily determined by its constitution. The claims rights & duties of servants in particular must have been fixed at first by consent & contract either tacit or explicit & by this contract they are admitted into the family being conceived to be originally strangers & not natural members of the family while the manners of mankind are very simple there is not that distinct notion of property or disposition of rights which is to be found in older & more corrupt societies according to the antient adage "Ex malis moribus oriuntur bonae leges" In a simple state of society men are prone to trust each other & do not distrust by that suspicion of fraud or anxiety to secure their rights & property that becomes absolutely necessary in corrupt ages & countries. In the first institution of servants therefore or at the first tacit introduction of the servile contract whereby the rights & duties of master & servants are defined & from which both of them arise it is probable that no express contract



at first was made but that the parties entirely trusted one another  
& depended on their mutual justice & this probably continu-  
ed for a very considerable time while the faithfulness of the  
servant & the gratitude & justice of the Master continued  
in a considerable degree of vigor & were most commonly  
found to ballance each other accordingly in our Lords para-  
ble of the labourers in the vineyard he represents the master  
as engaging the labourers without any express or precise  
stipulation in fixing wages or assigning the quantum of the  
reward which he was to give them & even at this day in  
many parts of England when people engage workmen who  
are strangers they generally make no particular terms with  
them but promise to give them what they shall think are  
worthy of upon trial & this sometimes lasts for a month &  
sometimes for a year or longer after which the master & servant  
make a new agreement either upon the same terms or for  
more indifferent ones according as they agree now it is proba-  
ble that in the early times of the world the engagements of  
the servants might be for life which by the increase of accu-  
sion in the master & of ignorance & indolence in the servants  
some think might have gradually given rise to the institution  
of slavery perhaps before any precise value was set upon a

man labour he might think himself justly obliged to  
serve that person for life who had charged himself with  
his whole support or perhaps the terms of the contract  
might vary according to the character & passions of the  
parties some might from a more generous temper or  
a love of liberty engage themselves only for a limited  
time while others that were much less susceptible might  
engage indefinitely or without specifying any time at  
all & while the great inconveniences of the change of con-  
dition were most distressingly felt by both parties the  
terms of the contract would probably remain vague & of  
an undetermined sort when the master who failed to be  
tasty in giving the servant the reward that he expected  
or when the servant became more negligent in perform-  
ing his duty than he had been at first either of these  
occurrences might have effect to render the contract more  
particular distinct & explicit In group of time it might come  
to be observed that the labour of any person in health was  
of more value than the charge of their food & clothing  
amounted to & those who had agreed for no more  
than this either at the expiration of the term of their  
contract or perhaps as soon as they discovered this fact



might begin to insist on such further reward, for their  
labours as might enable them in time to support a family  
by a become more independent on others & the mutual  
necessity of masters & servants would determine the  
rate of such wages at first in the same manner as they  
continue to do at this day but in the most early engage-  
ments of servants it is most probable that the labours  
to be performed by the servant were not particularly  
or distinctly specified in his agreement with the master  
the latter being always supposed to be possessed of human-  
ity & justice & the former being always willing to do as  
much as he was able but when other expensive labours  
came to be required on the part of the master or when  
a servant came to be possessed of a particular dexterity or  
an inclination for a peculiar kind of work he might  
come expressly to stipulate that he should not be employ-  
ed in any other now it being agreed that the servant should  
have a certain reward for his labours it must have been  
understood at the same time that the whole of this labour  
should be temperately faithfully & truly performed & for this  
purpose the servant must have been conceived to have

submitted himself to the power of the head of a family & to have consented to be subject to such correction in case of disobedience or negligence as should be found necessary for preserving order & for supporting the authority of the master but in case of the servants performing the labour & the correction & satisfaction of the master according to the agreement the master has no further demand on him but retains all his natural rights as the contract of the master fully expressed the terms & extent of his jurisdiction & had the same relation to him as the law here to subjects in civil society & for this reason the master can neither demand more labour or any labour of another kind than what was stipulated nor invade any of the natural rights of the servant not affected by the contract otherwise the servant may resist even to violence & death where there is no civil government but no master by a contract with a servant could have any right to transfer his labours to another the benefit & obligation of the contract lying necessarily confined to the parties only & as it is of great importance to the servant in what family he serves his consent must



be necessary to any such transfer of service but the case  
is quite otherwise when the service is made independent & trans-  
ferable by the original contract as in the case of indentured servants  
in this country. If a servant have a wife or children these cannot  
be or be least affected by the contract that alienates his labour  
either in their rights or property ——— but these remain  
as free as if a contract of service had never been made by the head  
of the family to which they belong while manhood continued  
simple in their manners & luxury & avarice were not excessive  
the condition of masters & servants — must have been  
very easy & agreeable & their joint way of living together must  
have approached very much to an equality but when ever the mas-  
ter's manner of living came to be so much distinguished from  
that of the servant higher wages were agreed & mutual suf-  
ferences of injustice must have been the consequence yet humi-  
lity would secure to the servant the right of being supported by  
his master in his sickness to whom he had devoted the labour  
of his health. It being a maxim of natural justice as well  
as of the Roman Law "Cuius est commodum ejus debet esse  
inconmodum" The duties of masters & servants  
arise from the contract between them & from the com-  
mon law of nature each of the parties must be concerned to be bound  
to do no injury to the other & to perform faithfully the  
conditions of the contract now as the master by the destination of

nature & the tenor of the contract has the sole right  
to command he ought to exalt his part with humanity  
& justice & because he has the superior station in the contract  
he ought for that very reason to have a more nice sense  
of honor & justice & because it is not so easy for the servant  
to hold him to the terms of his contract as it is for him to  
oblidge the servant to conform himself to it he ought to be  
a law to himself & to avoid the most distant suspicion  
of taking any advantage of his superior situation to the  
enjoyment of the rights & interest of his servant. There can  
be nothing more evidently demonstrative of original mean-  
ness of soul than to take the advantage of superior station to  
enjoy the wealth & dominion & on the other hand there is  
nothing so demonstrative of magnanimity or of a love  
of justice & a fitness to command as a nice sense of honor  
& keeping at the utmost distance from injury or taking  
undue advantage a Person of true magnanimity is  
more zealous of himself than of any other person whatever  
& will therefore labour by a liberal explanation of the con-  
tract in which he is concerned to convince all mankind  
that he is utterly incapable of taking any undue advantage  
of that superiority which his station & the nature of the



contract gives him such a conduct on the master is ab-  
solutely necessary to secure the compliance of the servant &  
to induce him to a faithful performance of the conditions of  
the contract on his part when he knows that his master  
desires all undue advantages on that head & for this reason  
we see that it happens that the best & most generous mas-  
ters have commonly the best servants & vice versa. The  
man who knows how to command with dignity humanity  
& propriety in the sight of all others he excite his servants  
to obey him with fidelity gladness & exactness. The best  
state of masters & servants is when there is a constant equal  
friendly subsisting between them which of them shall do the  
most honor to his own character by the most faithful per-  
formance of the conditions of the contract but when the  
equality is in the other way that is when they strive which  
of them shall take the most advantages of their respective  
situations the worst is necessarily different & the interests of  
both equally suffer nothing can excite a grateful &  
equitable behaviour in the servant more than an honor-  
able & liberal conduct on the part of the master & because  
the one of these has a tendency to give rise to the other  
whenever such conduct is wanting both Parties ought to  
blame themselves. Augustus was exceedingly desirous to

appear grateful to every Body who had served him &  
even one day in a Court of justice with one of his veteran  
soldiers who had a case of <sup>great importance</sup> depending he was desired  
to be his advocate Augustus accordingly acknowledged the  
obligation & in proof of this desired one of his friends who was  
expert to be the poor soldiers advocate Caesar replied the

Caesar replied the soldier this was not the  
way that I used you at the battle of Arxum I did  
not employ a stipendiary but fought for you in my own person  
as the marks of these wounds will witness at the same time  
showing his fears. Augustus was immediately overcome  
by the force of this reasoning & became his advocate in per-  
son & of course gained his cause one would sometimes ima-  
gine that magnanimity & propriety of behaviour as well  
as dignity of sentiment were much more common among  
men in general & particularly among people of distinction  
in ancient times than they are with us when the compact  
between the master & servant is cemented by mutual  
confidence & <sup>strengthened</sup> by affection it may be expected to be so  
much the more agreeable & advantageous to both nature opposes  
force in all things hatred contempt or suspicion are the  
worst preparations for parties that are engaged in any con-  
tract for performing the condition of it to mutual advan-



tage. It is common under this head to treat of general  
jurisdiction or of case of those persons who for some great da-  
mage done which they cannot repair or for some great  
crime against society are adjudged by law by way of  
punishment either for life or a term of years or with a  
view of making some compensation to society for the  
the person whom they have injured. That some crimi-  
nals should be condemned to servitude of this kind is  
most consonant to natural justice as well as to

It is greatly to the honor of this state that  
they especially have adopted this mode of punishing  
certain criminals as it may be attended <sup>with singular</sup> benefit if the  
want of spirit in the execution & the natural feelingness  
of mankind do not prevail upon them to reject at again  
yet those who have thus justly lost their liberty whether  
wholly or for a time ought not to be understood as ha-  
ving lost all the rights of mankind but such of them  
only as are naturally set a new piety to compensate  
the damage or to give security to the public against the  
like injuries for the future. If the lives even of the worst  
criminals are spared after they have endured all punishment  
in punishments as the law institutes or the safety of the  
society may require it is unjust to treat them with any

further cruelly provided they are willing to perform the  
labours which they are condemned to perform & they  
have a right to defend themselves even by violence against  
any new engines or violations of any rights that still re-  
main in them & are not affected by that sentence &  
as this slavery is constituted solely for the benefit of others  
that some may be justly transferred without their own  
consent all their other rights still remaining entire  
to them but no cause whatever can degrade a rati-  
onal creature to the condition of Brutes or of inanimate  
matter — so as to become wholly the property  
of another without any right of his own the condition of  
slavery by contract & even of criminal servitude —  
— is not degrading to human nature like the  
condition of slavery of which we shall have occasion  
to treat afterwards nor does it expose the servants  
to injustice & oppression without remedy. The laws  
of every country as well as the virtue & sense of the  
Master when he happens to have any are their pro-  
tection & protection before the law is reciprocal  
in every intelligent & well governed society it is suf-  
ficiently understood that the master would be as mis-  
-



able & helpless without y<sup>e</sup> assistance of <sup>servant</sup> 5. as the servant  
could be without the support of the master they are  
indeed mutually necessary to each other & their sepa-  
ration would occasion the common ruin of both more  
over provided by contract not only service for the Master  
of society & the augmentation of public happiness but  
for such other very important purposes. The first of  
these is to give every one that proper place in society &  
an opportunity of exercising those talents that nature  
has bestowed on them for the public happiness as well  
as for their own. Some men have naturally such flow-  
ing parts as only to be fit for such and such manual labour  
as does not require much judgment & may be perform-  
ed by mere bodily strength under the direction of  
others now servitude by contract as well as of  
personal necessity thrust men of this description into  
their proper station but if the very same persons who  
have been employed to make laws or to conduct the  
councils of the Public their labour would not have turn-  
ed out for the benefit of society but by being thus em-  
ployed in manual labour under proper direction they  
may be as useful to society as nature has qualified

them to be every  
ing out out of <sup>its</sup> own place  
that no-body could be a better servant or a worse  
master than he was, that is to say, his coat were  
of the lower kind & he was destitute of generosity  
& magnanimity now as the far greater part of  
mankind are of this kind of mind rather haughty  
substant themselves provided & labour under the domination  
of others. Titinius again in order to be a scourge to  
~~with~~ a warlike people was raised by Providence to be an  
absolute Prince & the <sup>meanings</sup> selfishness of his soul  
well as more conspicuous in consequence of his exal-  
ted rank. Laco Pancho the favorite squire of Don  
Quixote is described by Cervantes as possessed of as  
much ability & discernment as could be expected in a  
Spanish peasant & of much more evil <sup>if</sup> could have been  
expected in it. <sup>station</sup> yet he did not shine equally in the character of the  
supreme governor of the state & though indeed he was  
the best governor that we read of in respect to the jus-  
tice of his sentences yet this was not owing to the  
short duration of his government than to his conduct  
in it he knew not what to do in case of an alarm



he could not watch against loss nor win dis-  
cover that the whole story of his government was  
merely a mummery but in the management of  
his masters & his own as he knew what he  
ought to do & his talents were properly & usefully  
applied none of his words were turned upside down  
& the intentions of nature quite wrong with regard  
to every individual it would be as full as strange  
a figure as the giant that stood under that title  
in England. Marbuds are not like blocks of mar-  
ble or stones in a quarry which may be cut of any  
size or in any shape that we please on the contrary  
each of them have a determinate capacity for  
relieve & public usefulness which he may indeed  
fall short of but is no education <sup>or training</sup> whatsoever is able  
to augment or to advance one step further when  
the young man in the path of ~~the~~ <sup>the</sup> who was fond  
of a cat had obtained from Venus by his prayers  
that his cat should be transformed into a beautiful  
woman he soon found that he had still the nature

and soul of a Cat ——— as on the first  
appearance of a mouse she gave chase immediately  
by a intemperate fault all the honors of her fine Ladyship  
In the same manner of chance or political folly  
should take a man of the same or <sup>near</sup> ~~under~~ the  
size of Lancelotti Panepa & set him upon a throne  
or in a senate the fall of the Cat would be soon realized  
& he would appear with in this dress disguised to be  
as mean as nature at first made him being inea-  
pable of putting off his original ignorance & low habits  
men of this sort may sometimes indeed make  
great fortunes but it is commonly observed that when  
they do so they generally occupy one or other of the  
extremes of the miser & Spendthrift wanting  
understanding to sit <sup>in</sup> the middle so that similitude  
by mutual contrast produces many extensive & impor-  
tant benefits to society from men who could not have  
been otherwise useful & who if left to themselves without  
the grasp of rapacity might have been harmless in-  
stead of being profitable to the public at the same  
time this ——— distinction demonstrates not



only the wisdom of nature & her kindness to  
to society but has the greatest tendency to the happiness  
of those very persons who occupy the lower department  
of human society for if they were out of their place &  
consulted by public error or mistake in the stations  
of relative dignity or political jurisdiction they w<sup>d</sup>  
be miserable & useless in their respective stations & conti-  
nue to be happy till they were again dropped off  
accordingly Servantes must properly describe Socrates  
& Plato as deriving this important lesson from the  
story of the government that nation had never made  
or meant him to be a governor; but we can not tell  
suppose that all men would be able to show the  
same sense & to make the like application on a  
like occasion the rustic produced by the Roman  
Saturnalia when the servants become the mas-  
ters & the masters servants made a good enough  
frolic for 3 days but might have been very ruin-  
ous if it had continued longer ~~~~~  
the dispositions of nature being so unequal & various  
with respect to different persons each one must be happiest

as well as most useful in his own place for which na-  
ture has qualified by the qualities which he possesses  
every man is to be considered as valuable & praise worthy  
when he performs the duty of his own place & assigns  
to the utmost merit in his representation without  
seeking to encroach upon others it must fairly be  
added that he will be the most happy in  
the same situation —

Lecture 14<sup>th</sup> March 26<sup>th</sup> 1709

There is accordingly for the most part a great  
deal of more happiness in low life than in high for this reason  
that there are a great many more people in low life who are  
in their proper & natural place than of those in high life  
being without any exception such as they have been used  
to & having no business except what they are fit to manage  
& without apprehension of any danger or desire of a change  
of state those in low life who are wise generally enjoy a  
tranquillity to which the most part of men in the upper  
ranks of society are total strangers.



" *Aspirantes nemini sua si bona videntur*  
*aspiramus.*

When we find that there is always  
much more mirth & real enjoyment among the servants  
of a great house than among the masters & the poor part  
of every family seems contented & less of mind than  
the rich. The dangers & dangers of high life are al-  
ways comparable & leave the selfish or little share for tran-  
quility & these desires being enlarged by their situation  
often produce wants that nature itself cannot satisfy  
cannot satisfy so that Mark's paradox of the poor man  
being less needy than the rich is confirmed by sound sense &  
actual experience. "*Dives est gemmas cereali munere*  
*paupe cumque equant ambo pauper regis munus est.*"  
The one wants luxuries which ~~always~~ his wealth cannot  
purchase & the other wants & only bread which may be  
probably & easily obtained but demands for it by contract  
produces another great benefit to society which is that it affords a  
temporary service to men who are capable of or originally belonging  
to other stations till they discover & improve their talents so as to  
procure an opportunity of a better situation now though a  
man in low life may not be qualified for the higher stations

get many of those who are qualified for higher stations  
may be very capable of the office & duties of lower  
life the higher degrees of wisdom or any other desirable  
quality comprehend the lower but not vice versa with  
regard to the far greater part of mankind nature has  
just placed them either exactly or nearly where it was her  
intention that they should remain but with respect to  
those that are endowed with strength of parts & activity of  
disposition she sometimes places them far below the rank  
that she designs for them in order that by the exertion of  
their faculties they may both rise in time to their destined  
rank & prove themselves worthy of it one of the faults by  
the excess of wisdom & temperance Prudence & circumspection  
with a laudable ambition in low life may often at-  
tain an opportunity of rising to their proper place as all  
history bears witness at the same time their Patience  
calmness & ingenuity render them more conspicu-  
ous than if they had been born in high life & indolent  
reign'd in that station in which they were gradu-  
ed "Mallet tunc summis anctare & insignem attinent  
Sunt obscura promerens" but although the notion of the



equality of all men with regard to talents & capacity is an  
idle dream & is contrary to experience & the intention of na-  
ture yet there is an equality of all men on point of  
natural rights which is true & agreeable to the inten-  
tion of nature Men for example are very unequally  
qualified for business philosophy & government but they  
have an equal right to natural liberty & the pur-  
suit of happiness in conformity with the interests of  
society no man has or can have a right to claim  
another man as his property or to oblige him to depend  
on another for the enjoyment of life the connection & subordi-  
nation of the different ranks in society is the work of na-  
ture & necessity & is formed & limited by voluntary con-  
tract but the necessity supposes that the parties are at  
liberty & naturally independent on each other before the  
making of this contract but the slave & vassal of every  
man in society is determined by his Talents & by the success  
of his endeavours in conformity to justice & the rights  
of others & no other person has a right to point or direct him  
any place for him according to the notion that he has of his

talent & fitness nature has determined men for doing  
different stations & offices yet every man however  
he is qualified has a right to the station & office  
which he desires if he has acquired that as well  
as his rank in life ——— in a country  
with justice & the rights of society now it is only  
in the latter capacity namely with regard to  
their natural rights & to those that they have justly  
acquired that all men are equal but in no other  
relations in respect to the endowments of the mind &  
talent for business or study as well as with respect to  
moral qualities perhaps no two persons were ever ex-  
actly equal to each other so far is it from being true  
that all are equal in these respects but with regard to y<sup>r</sup>  
rights is whatever nature or the laws of society have given each of us respectively  
every man is  
equally & at all times equal to every other man in so  
much that if any of his natural or his civil rights are taken  
from him he has a right to be reinstated in them even  
by violence & at the peril & expense of those who have deprived  
him of them & endeavour to keep them from him now it  
is upon the ground only & not upon the wild notion of



the equal right & stamp of all men to be Kings & Rulers,  
that the Patriots of this country resisted & repelled the power  
of great Britain & attained their <sup>desired</sup> ~~prudent~~ independance  
— but the confusion of different ideas  
— has often occasioned many gross errors & political see-  
sitation — we have heard very much of late of the  
natural equality & inequality of mankind & have been led into  
of all men are born equal & there is less sanguine in main-  
taining that they are born very unequal but the truth is, that  
both these contrary positions are true in one sense & false in another  
but the propagation of these different extremes have generally had  
diff. meanings & views of the question & have reciprocally  
misplaced the opinions of each other for the most part so that  
they maintained their respective opinions in two diff. senses  
by confounding the diff. inequalities of man Mr. Maynard produced  
his first essay on that subject which was the foundation of his fame  
& which obtained <sup>the</sup> prize from the Academy of Upsal In that  
Essay he gives an — an eloquent detail of all the misfortunes  
of men in consequence of the laws of their inequality & charges y<sup>m</sup>  
all to the account of our society which he represents to be  
totally unnatural & with a view to recommend the savage  
state in preference to it his argument indeed are very ingeni-  
ous & his narrative eloquent & affecting but neither the one

nor the other are just or solid because he has omitted in  
his account all the inestimable advantages which soundly  
denude from that very inequality as he so pathetically laments  
but many authors since that time & even Mr. Proudhon him-  
self in his treatise on the social contract have treated that subject  
with much more accuracy & distinctness on the other hand the  
celebrated Mr. Paine in his essay entitled common sense has  
placed the equality of man kind far too high & on a very wrong  
basis entirely forgetting the natural disparity of talents  
birth & capacities but the opinions of both these writers might  
be perfectly reconciled by the help of the distinction already mention-  
ed the most plausible defender of Democracy as these writers  
who endeavour to establish it on the basis of distributive justice  
& on the other hand the advocates for anarchy who now equally  
abound are most successful when they endeavour to ap-  
ply the rules of commutative justice & relate only to the  
natural rights & equal property of men to all the diff.  
ranks & offices of society as if any had a natural title to  
them or as if the whole society could possess them at once now  
distributive justice belongs only to God who is infinitely wise  
as well as powerful & who places every man in that rank  
& office which he judged to be most fit for the execution of his



purposes either of mercy or of vengeance to human society.  
Commulative justice again belongs to man & consists in  
maintaining every one in the enjoyment of those rights & powers  
& possessions which God has thought proper to give him & to  
restore them to him when he has been unjustly deprived  
of them, but the confounding of these two species of justice has  
occurred like errors on that of the inequality & equality  
of men in a free republic & extended in any other state  
every man has a right to any office of the state to which  
he is regularly appointed & elected by the equal & constitu-  
tional power of the state but no man has a right in  
commutative justice to demand any office whatever as his  
right or property or ought to think himself injured when  
he has no office at all because the supreme distributive jus-  
tice of the state allows no man to demand any office whatever  
as his  
~~matter of~~ right or property or ought to think himself inju-  
red when he has no <sup>office at all</sup> because the supreme distributive justice  
of the state or the concerted sense of in-  
dividuals to discharge the duties of them with propriety no  
man therefore is injured by not being elected to an office  
though he may be exceedingly fit for it but so long as he  
is injured when he is not fit we often hear indeed that by the  
constitution of a free republic all powers originally  
in the people but as they cannot in their proper persons

exercise it over themselves this meaning can only be if power  
all they have by regular election collected & concentrated in  
proper officers after which the people have no more to  
do with it till the term is expired for which these officers were  
elected if they while in office act according to the law & when  
that term ~~is expired~~ <sup>to</sup> ~~the people must~~  
immediately dispose of it either to the same persons if they  
please but cannot retain it a single day in <sup>it a single day in</sup> <sup>their own hands</sup>  
except to the appointment of a magistrate is one thing & to  
have a right to be appointed or actually cho<sup>sen</sup> a magistrate is ano-  
ther Every citizen of a free republic has a right to the suffrage but no  
man whatever can have any right to the suffrage by the  
election of his countrymen This indeed when obtained constitutes a  
right for a certain time but does not acknowledge any grievance  
artful demagogues have endeavoured to excite rebellion in  
favour of these states by persuading the ignorant & superstitious  
part of the citizens that they are greatly injured because the be-  
nign officers of the state are not in their possession but have been  
given to those who were elected to them

may they even endeavour to make them rebel against  
themselves & to attempt to take down in an illegal man-  
ner what they themselves have constitutionally made now if  
according to these demagogues every man has a right by



commutative justice to any or all  
the right at all times & consequently ought to be perpetually  
in office & every man ought likewise to be in all different  
offices at one time according to commutative every man  
ought to be maintained in <sup>his natural & uninterrupted</sup> enjoyment of all his rights with  
no exception now according to this way of reasoning no one man  
could possibly be elected to any office without injuring every other  
member of the state who certainly has as good a right to be ap-  
pointed in commutative justice as he has thus according to  
this notion all men must be governors & all of them must  
be in every office at one or all this is supposed to be their right  
so that nobody at all would be left to be subject or to be govern-  
ed but it is probable that these demagogues have another notion  
also to bring forth <sup>sometimes</sup> they have that all property is in the people  
& that consequently every man who thinks that he is in want  
may take from another till he thinks he has enough which  
at one

to destroy life. Although mankind are divided into different  
ranks & this in a great measure according to the disposition of  
nature in giving them unequal endowments yet all men  
are not & indeed cannot be placed in the highest situation  
for which nature has qualified them yet no injury what-  
ever is done them by this because it is the act of god who can-

instructing any one  
appointment of Providence & to preserve to every one all their  
right & opinion that he has received from Providence in a  
just & lawful manner

to be a servant but as God & the Law  
have made him a master no power on earth has a right  
to dispossess him under pretence of distributive justice & neither a  
giver may be in the condition of a servant who preserves not  
withstanding a sufficient capacity of being so command as  
to fill an eminent station in life

injustice because the provi-  
dence of God who is the free disposer of his gifts can do no in-  
jury to any man for as he ought he do may

or fraud but on the contra-  
ry he ought by contentment & patience & by doing the  
duty of his station faithfully to wait an opportunity  
if it be granted him of changing his station for a better —

" Multa

" retulit in modis

"

enjoy in a proper manner another man perhaps possesses these  
talents in a very high degree but has no state at all and



& pretender to distributive justice would in this case turn out  
the lawful proposer & give the state to the other who had abilities  
to manage it but this would be a very great crime & w<sup>d</sup>  
overturn all right among men besides it is encroach-  
ing on the business of providence & making our false judges  
of the world. It has indeed been often a temptation to many  
poor men to commit crimes that they conceived that

& perhaps would miss "Ecce damus est ubi non  
et multa superflua et dominum fallunt & profana furia-  
tio." But the law does not judge concerning any man  
fitness to enjoy property

to possess it which I will support in

all cases in the same manner in families the head may  
often have many faults or weaknesses & may be guilty  
of negligence & misadministration in some things

Station & rule only over  
his own family the members of it ought not to disobey  
or depend him nor to ent themselves into judges of  
his conduct but they ought to submit to his government  
& by patience & cetera  
graciously which it would be wise

mineral to the work of relieving in another manner

## Lecture 143 March 25 Thursday 1789.

Many children from false notions of distributive justice  
& from a conceit that they had a right to exercise it have  
persuaded themselves that because their Parents had money enough  
& yet did not give them what in their opinion was sufficient  
for their pleasures they might take it legally when they had  
an opportunity. Such like notions have also led many servants to  
rob their masters because they thought that they were too rich  
& courteous & did not give them sufficient rewards for their services  
but it is easy to see that notions of this kind are the source of  
all law right & propriety & tend to overturn all justice whether  
particular or state in which they prevail. Many understand &  
deluded citizens in <sup>new</sup> England & America lately persuaded them  
selves that it was not just for all power was in the people  
that any of them should be obliged to work for their living  
while the servants & officers of the state whom they appointed  
had more money than themselves who were their masters.  
Men of this kind generally rest upon daily loose & false  
notions of distributive justice & so make themselves believe  
that it is not just that any public servant of the state



Should oppress whoever lawfully while any of the  
people his lords & masters are exposed towards this cala-  
mity. In the middle age the Knight Errant went about  
redressing grievances & suppressing usuries according to  
that best notion of honour & justice but they were so far  
excusable because at that time the Roman power was  
lately extinct & no form or establishment of government had  
yet taken its place but to endeavour to destroy an establish-  
ed government especially one of our own making & to displace  
ourselves of our own choosing is a degree of infamy that is  
without any example on the other side of the Atlantic  
for which surely any punishment can be sufficient if  
men will not be subject to a government of their own making  
or can't trust even for a single year a form of their own choosing.  
It is manifest that a free & just government is not what  
they are seeking but a total subversion of all law & jus-  
tice which may give them an opportunity of enriching  
themselves by the plunder of their neighbours "Quod prodest  
a nobis fluctuat fortuna in gubernans". The most  
familiar among the ancients even to many among the  
moderns a species of servants can be found who have

never entered into any contract nor receive any  
reward but are kept in servitude by force we mean if <sup>not</sup> <sup>rather</sup> <sup>more</sup> <sup>rather</sup>  
rare of slaves the most injured & unhappy of the human species  
The existence of this species of servants though indeed a  
reproach to human nature may be traced in most  
nations to the most remote antiquity & appears  
to have been one of the most early marks of ancient  
civilization though they learned are not agreed as to the time  
& manner in which this abominable institution was intro-  
duced into the world Some imagine that it was the  
effect of a gradual corruption of servitude by contract  
when poor men had found shelter & protection in the  
furnaces of the neck it is possible that they might be  
so grateful for these benefits which were rendered more  
agreeable by the remembrance of grievous want as  
rather to bargain for any reward from their mas-  
ters not to think of leaving their families in which  
they had found an asylum from want the kind treat-  
ment of their masters might excite them to extreme  
confidence so as to end their days in the family into  
which they had voluntarily entered as servants & the



same kind treatment might encourage them to  
marry & thus children being thus born in the family  
& observing the reverence & obedience which their Parents  
yielded to the head of it would conceive from their cradles  
the very same sentiments & would naturally imbibed all those attach-  
ments to the family that a good man has to his native country nor  
if the same good treatment still continued a spirit of gratitude  
aided to the former attachment might induce the children to  
continue in those families in which they were born & in proof  
of this the children that were born in a family might be  
considered as from time obliged to remain in that family & ha-  
ving no attachments elsewhere the obligation would be easily  
admitted on this part there are many of mankind & in  
age of simple manners who must have been many more  
who by the weakness of their families the paucity of their  
ideas & their want of ambition would constantly have a ten-  
dency to remain in any situation in which they can obtain  
the ordinary comforts of life & possess of the soil in all ages  
have been easily made slaves & kept under subjection being  
totally unconscious of any original rights & unable to esti-  
mate the value of their labours or those of their parents

They might be easily made to believe that the price of  
their whole life was little enough to compensate for their  
element in their tender years especially as they could have  
no prospect of self-interest after leaving their native family  
other than that of entering into another of the same kind  
& upon the same terms now under these circumstances  
even if too poor a confined crew would always prefer  
their native family to any other & considering their masters as  
their first benefactors they would readily feel for them much  
the same kind of affection that children do to their parents  
when they are taught to love & reverence before they are ca-  
pable of conceiving the nature of their relation to them or  
how much they had done for them the manner in which  
attent possession has often come to be confined onto a  
right in other cases gives great probability to this opinion  
at least we know that the national slavery of the children  
of Israel in Egypt commenced in this manner formerly  
possessing a part of the kingdom & having at first only  
the care of the things cattle they might probably be  
led voluntarily to perform some other public service from  
mere gratitude which at last came to be considered as



right & the whole race came to be esteemed the property  
of government perhaps the resentment of the Egyptians for  
the awful ministry - of Joseph who during the years  
of famine had rendered himself a tyrant and imposed  
a land-tax of 20 per cent on all the subjects - might  
have contributed something to this event for the danger not  
hungering Joseph must only be under a flood of his having  
forgot the price which he did to the crown for there never  
was a king of Egypt since his time who literally did not  
hunger Joseph & perhaps not a single Egyptian he is known  
in Egypt to this day & every useful work in that kingdom  
is attributed to him & every thing that is bad is ascribed to  
Pharaoh what did the learned Mons<sup>r</sup> that Bishop of Avarus  
to imagine that Joseph was the Egyptian  
Osiris when captain D'Arbuthnot travelled into Egypt about 160  
years ago he was advised to take the name of Joseph which  
was of very great use to him & freed him in a great measure  
from the insolence  
& passions with which the peasants of that country are apt to  
treat strangers but to return the more prevailing opinion  
concerning the origin of domestic slavery is that it took its rise  
from war & that when a prisoner was taken in the field which  
perhaps was not the case at first an exterminating war was more

probably the first that ever occurred on condition of  
their becoming slaves to the conquerors with which there is  
possibly some in Cicero given the account of the origin of slavery  
thinks that they were called *servi quasi servati* because  
they were confined in the field but the origin of slavery was  
doubtless far more ancient than any words of the Latin  
language or even the Greek which is so very many ages  
It is an ancient idea that the - conquered were entirely at  
the discretion of the conquerors who might either spare them  
or kill them as they pleased - Thus Livy tells us that  
according to the most ancient traditions after the sack of  
Troy all the Trojans that fell into the hands of the Greeks  
were slain except Hector & Antenor with a few of their followers.  
Hermion & young children were probably the first slaves that  
having often passed were before the rest were slain when Homer  
mentions the taking of a city he generally mentions at the  
same time the extermination of all the male inhabitants  
Thus Voltaire says to Alcinous -

"Eliotes me

"Eubade & you

And in process of time even men in arms were spared in  
the field on condition of becoming slaves to the conquerors



It is very probable that both the practice of sparing  
• that of killing Prisoners continued to be common at  
the same time according to the different characters or dispo-  
sition of the conquerors but the policy of sparing prisoners  
was introduced much more easily in the East as the  
King of Elam carried away captive the inhabitants  
of the city of the plain of Jordan instead of putting  
them to the sword It is also probable that avarice rather  
than Humanity first dictated the measure of sparing  
the conquered "Unde compis captivam oreden noli  
"Servat utitur sine capatdum avitque  
"Nec igit A studiis fimal meritor in undis

But when the practice was once introduced it soon became  
general & those who were captured from foreign wars became  
Slaves & were subject to all the laws of property & came  
to be considered as mere tools or inanimate matter in the force  
of prejudice & custom that Aristotle does seem to be sensible  
of the unreasonableness & injustice of Slavery but thinks that  
some men were born to be slaves for the same reason  
for many of y<sup>e</sup> ancients were of the same sentiments & it  
was easy to quote many modern who are yet no wiser y<sup>e</sup>  
ancients on this head  
Humanity which exists in some degree even among Barbarians  
sometimes produced some small relief as to the condition  
of slaves in some countries particularly in Athens but for

the most part this condition was only such as could be  
expected from men of mean souls invested with absolute  
authority now the man who can consent to be unjust  
is ashamed to lay any claim to humanity to them.  
One must consider those whom he has in his power as  
having no rights at all of their own & entirely at his dis-  
cretion it is indeed grossly deceiving an insult upon  
human nature to adduce any arguments to prove the  
unlawfulness of Slavery but to argue & contend have  
so much blinded the generality of men that they are not  
capable of feeling the force of any arguments adduced for ri-  
tual liberty against their own interest but 7 years of hard  
servitude in Algeria which were fraught of justice & humanity  
would hardly enough them would enlighten their understand-  
ings more than all the arguments that could be adduced  
a person of virtue & honor would need only to try the influ-  
ence of slavery by the impudent maxim "Quod tibi  
pari non vis alteri ne feceris" — & when con-  
sidered how unjust it would be in his opinion for any one  
to make him a slave he would conclude without hesitation  
that it must necessarily be as unlawful for him to make



a slave of any other without deigning to enquire any farther but aware & unjustly with the graces of all ages have made some men impudent enough to defend an institution which none of them would think just if it extended to themselves for we have never yet heard of any slave who <sup>wrote in defence</sup> spoke or <sup>of slavery</sup> though they of all others must be best acquainted with the happiness of that state which some of their worthless masters have heid the impudence to pretend to defend in <sup>publications</sup> scandalous <sup>for</sup> some of them have even had the assurance to bring in divine revelation as countenancing that vice & endeavour to defend the institution of slavery by arguments from holy scriptures it is true indeed that the Jews were permitted by their Law to buy slaves & even to buy their own countrymen when they had become bankrupt for a limited time when the true religion was confined to one family God permitted the patriarchs & their descendants to buy slaves for domestic service whom they were obliged to educate in the true religion because the souls of men are more valuable to <sup>God</sup> than their liberties this proved an inexpressible benefit to many who were already in the state of slavery but the Jewish Law sufficiently reprobates slavery by making it the punishment of a person who had not the right to leave his master when the term of his service was expired this being thus a sentence of slavery by the judges was a sufficient testimony against that institution

This sentence was inflicted only upon those who  
helped it but the Jews were expressly forbidden to give up a fugitive  
slave to his master who had fled to them for refuge they therefore  
they were neither allowed to give up nor to enslave God the au-  
thor of their law or the great confider a fugitive slave as  
a free man & orders him to be treated accordingly which of  
itself is a sufficient testimony that slavery is contrary to the law of  
God as well as to natural justice which is the source of her law.  
now if a slave becomes in justice the property of his master  
either by conquest robbery or purchase it would have been  
contrary to natural justice to have detained them from their  
lawful proprietors because that which is contrary to natural  
justice cannot be the object of a divine precept

Now as the Jews were expressly forbidden to give slaves  
back to their masters enjoined to protect them it must be vi-  
dent that the institution of slavery is as contrary to the divine law  
as it is to the law of nature In the new testament indeed no ex-  
press prohibition of slavery by name is to be found but when we  
read these words of our Lord "whatsoever things ye would that  
men should do unto you do ye also even so unto them for this  
is the law & the prophets." It is utterly impossible even for the most  
stupid slave owner to understand them in a consistency w<sup>th</sup>  
that institution, As many slaves were converted in the  
beginning of Christianity they were not enjoined by the



Apostles to insist on this point though it was  
expressly declared that he who was called being a slave was a  
Lord's freeman  
e this only left it should have occasioned a general  
prohibition of slaves from hearing the gospel & so hin-  
dered the conversion of great numbers the Slavers  
have also quoted the Epistle to Philemon, because the  
apostle sends back Onesimus his fugitive slave to Phi-  
mon his former master from which they endeavour to argue  
that he sent him back to continue in slavery though the  
epistle say expressly that he was not now to be received  
as a servant & when the apostle commands Philemon to  
receive Onesimus as himself he could not surely mean if  
he was to make him his <sup>slave</sup> Paul knew much better the ex-  
tension of a Roman citizen than to offer him self on the slave  
of any man we will not suppose moral science by  
pretending to lay down the duties of masters & Slaves any  
more than we would design to give directions concerning  
use of any other ~~noting~~ <sup>noting</sup> goods. a Society that  
is constituted by force & injustice & totally incompatible w<sup>th</sup>  
Friendship justice benevolence & gratitude  
cannot be the object of moral rules nor united with  
any virtue whatsoever Slavery debases the mind & produces  
dissear confidence insolence hatred & resentment but it  
cannot possibly produce love friendship gratitude & benevo-  
lence it is incompatible however to determine whether slavery

debase the mind of the slave or that of the  
the master to the greatest degree much might be  
said on both sides like the Roman Soldier that were  
chained to their prisoners for the sake of security both of them  
indeed may be said to be in equal bondage or avowed the  
love of tyranny to the master as firmly on fear or mean-  
ness of spirit can to the slave so that though they hate  
one another morally yet neither of them have courage to  
think of parting. The people called Quakers  
have had the honor of being the first Society who have felt the  
force of truth on this instance & disowned the right of man-  
kind by the light within them but all honest and  
unswerving individuals were always of the same opinion from  
the beginning of things. This state indeed has had the honor  
the we do not know yet when it may be called free, <sup>= trying</sup> of man-  
a law pointing towards a at a great distance at the  
abolition of slavery but not sufficiently binding the flesh  
of the grammar the law appoints nobody whatsoever to  
carry it into execution & may probably prove as invari-  
ous as the law for the observance of the sabbath; besides  
the negroes know nothing of it & in the course of 21  
years fifty examples will have many opportunities  
to regain the ascendant but if a sense of honor justice



humanely could be really introduced ~~~~  
early mischief & distress & afflictions incident would  
be fallen upon to establish forever an institution which  
which at last must be fatal to all hopes of improvement  
& must render these poor men gangs or a sort of  
congested men. Slaves cannot be members of a family ha-  
ving received no benefits except at the price of qualms &  
being therefore incapable of gratitude as well as not bound  
to it their situation being entirely forced & unnatural cannot  
be enforced by the sanction of duty & the master having no  
right whatever to obedience <sup>= not be executed & to be guided</sup> can by any other maxims in  
the use of their power than by those of force & injustice by which  
it was first acquired for with regard to purchase money it is perfectly  
ridiculous & disgraceful to human reason to think that the laws  
of nature can be altered by any thing of that kind or that the  
liberty of a man can be in the least assailed by a sum of money  
whether paid by one ~~person~~ to another. In enumerating  
the duties upon which probability or justice in its largest acceptation  
are <sup>omitted</sup> properly, Irand ship as belonging properly to Economics  
& indeed we might have mentioned it first of all under that  
head as the common bond of domestic society which intrinsically  
is susceptible of very little pleasure or happiness but we  
chose to reserve it to the last place as containing in it

the fullness of what all domestic relations owe to each  
other — Friendship is the beneficence of private parties  
proceeding from inducement of particular affections & attachment we  
owe benevolence to all men as well as when beneficence when  
opportunistically occurs but Friendship is a species of Benevolence  
& beneficence which is prompted not solely from a regard  
to the human form but by some peculiar qualities of  
the object of it Friendship constitutes a relation which is often  
found to be stronger than many of those which are constituted  
by nature itself & it differs so much from certain qualities  
whether natural or moral which appear pleasing useful  
& estimable similarity of manners is necessary to consti-  
tute friendship though not always similarity of humors  
but when both these concur the attachment is closer formed  
& more apt to last accordingly the young & the old the grave  
& the gay <sup>even</sup> the rich & the poor may be united by the bond of  
Friendship many of the ancient ~~philosophers~~ <sup>philosophers</sup> entertain very extra-  
gant notions of Friendship & imagine that it could not exist  
except between two persons perfectly similar in taste humors  
& manner & excluded <sup>even</sup> a third person from the same degree  
of affection but they speak of it in a high <sup>friendship</sup> degree that it could be  
supposed to exist & consequently rather deprecating than  
advancing it by the very high terms in which they expressed



(They mention -  
themselves on the subject here almost all those whom  
as Friends are only in Paris Whiston & Panthous Origen  
and Plegades - Damon & Pythias, are almost all of them  
dign to mention as belonging to the perfect class of Friends  
but the ancients were more enthusiasts or methodists  
methodists in point of Friendship & perhaps did it a  
little sooner by the high things which they have said of  
as they others have done to religious by extending that  
perfection was attainable in the present

Lecture 14th March the 26<sup>th</sup> 1789.

What was truly commendable in the doctrine of the  
ancients concerning Friendship was that they uniformly held that  
virtue was necessary as the Basis of it & that this kind of connec-  
tion was proper only to good men "Idem velle et nolle ea commun-  
est prima amicitia quae inter bonos apparet apparet inter  
males factio" Union of affection in vice is not only a bad  
principle as being adverse to justice & the good of society; but  
it is likewise very precarious; because man is naturally a selfish &  
dividing principle & cannot connect men any longer than their  
interests are connected so that that connection which is formed  
by vice is often broken in a short time by accident time or  
constant humor swelling & casual provocation none of which

can strengthen true or virtuous friendship. Friendship may  
indeed be termed the attraction & cement of virtuous minds, by  
which they are not only brought together but kept together in a  
much closer society than others are susceptible of. Among  
natural Bodies those which attract each other in the greatest  
numbers of points are capable of the strongest attraction. So in  
minds those nations that possess the greatest number of  
resemblances to each other are capable of the truest Friendship  
now in order that men may be capable of being friends to each other  
they must be common friends & heirs of virtue. "Sed et uni equales  
omnesque agis amicus" Friendship is capable of various  
degrees & modifications according to the temper, tastes & talents of  
the parties between whom it exists. We have mentioned it as the  
groundwork of all the domestic relations in those which that  
which is peculiar to them cannot be preserved or depended upon  
We may easily illustrate & confirm this observation by apply-  
ing it generally to each of them. The relation of husband & wife  
e.g. cannot be a happy one nor can the duties of it be satis-  
factorily & uniformly & heartily performed without including virtuous  
Friendship into basis. A man sense of duty or mutual interest  
or the effect of personal qualities & external endowments are



Idolically inefficient for maintaining that degree of affection  
that is necessary to constitute the happiness of this relation  
The great intimacy which is involved in it must discover ma-  
ny latent disparities & excite such casual provocations &  
offences as nothing except a sincere friendship could possibly  
bear or prevent from ripening into a rupture. Friendship  
like the grand Colours in dying purple & succeeds the  
glaze & splendor of all the dimple affections & prevents  
their extinction from secret dissensions or external causes now as  
Friendship is the cement of virtuous characters every good man  
must be capable of it with regard to every other good man  
in proportion to the degree of merit which he inspires him to  
be capable of & this merit is not only the measure of Friendship  
which determines that degree of it which we ought to have to each  
but it is generally the growing or operative cause of it at the  
beginning we may indeed feel certain unaccountable attrac-  
tions & attractions to persons whom we are very little acquain-  
ted with but these cannot be called friendship; but only sympathy  
or liking unless we are persuaded on good information that they  
are persons of virtue & honor. The peculiar & singular situation is  
the matrimonial affection makes of its object as well as the

union confidence that is implied in that relation  
renders the opinion & persuasion of each others virtue  
a mutually necessary for the happiness of the parties concerned  
in it now the duties of Friendship are so similar to  
those of the matrimonial relation that the one may be  
properly illustrated & explained by the other. Indeed they  
differently indigene in the singularity of their object in  
which latter respect some of the ancients did not  
misdiscern them. because they held that the relation  
of Friendship as well as that of matrimony could  
subsist only between two persons. Gradual & good  
offices serve to strengthen that Friendship which  
similitude of manners first constitutes. An interchange  
of good offices is not only useful for the support of society  
but for strengthening the friendly affection. Hence the ancients  
recommenced friendship to be a kind of virtue or excellency  
in itself on account of that elevation & dignity of mind  
which is necessary to support the higher degrees of it  
but although Friendship is not in itself a moral  
excellency as the ancients imagined, yet a capacity  
for friendship certainly is so. now a virtuous disposi-  
tion & a capacity for friendship are one & the



same thing Friendship like matrimony constitutes  
a community of interests & a reciprocity of affection  
It likewise requires mutual indulgence candor and sym-  
pathy & a right to continue notwithstanding all actions  
& changes of fortune. It is founded in personal qualities  
& has virtue & honor for its basis but Friendship though  
no virtue in itself is notwithstanding a most valuable  
consequence both to the subject & the object of it &  
friendly disposition implies virtue & moral excellence &  
to be the object of the Friendship of the virtuous implies  
one being possessive of that quality, now as every excellent  
quality is laid claim to by many Hypocrites & preten-  
ders the worst of men not only have their Friends, but  
sometimes even pretend to be friends to the virtuous in  
order to cultivate honor to themselves as the equality that  
is supposed to be implied in Friendship belongs only to  
the man & a higher degree of it it may therefore  
be the cement of the relation of Parents & children  
as well as that of the children of the same family &  
even between masters & servants as we have observed  
already that fortune has no share in this bond of con-

union. Similarity of manners may be expired in  
families though it is not always found & when this  
latter is the case the relation & affection will be very feeble  
"Parum quocque gratia rara est" But when friend-  
ship concurs with the relation & affection the case is other-  
wise. As Friendship admits of degrees & all men are not  
equally qualified for it the allowing each of our virtuous  
acquaintances such a share in our Friendship as is pro-  
portionable to their virtues appears to be just & equitable -  
Benevolent actions conciliate friendship according to the  
several nature & circumstances & a great deal is ad-  
ded to their weight & obligation by the manner in which  
they are performed. Now friendship not only strengthens  
& supports domestic affection & relations; but it some-  
times gives us strength by triumphing over them & by  
uniting hostile families & persons who had no attachments  
to each other. The close society of the domestic life & the  
familiarity arising from it necessarily requires the consent of  
Friendship otherwise the mutual disputes & little interferences  
that may arise among men relations, might degenerate  
into hatred & render the relation most impracticable & uncon-



portable. Master & Servants are not only capable of mutual  
friendship; but friendship is even more common perhaps  
between these than some other of the domestic relations &  
in all well ordered families this friendship is not only real  
& reciprocal but extremely lasting & attended with many  
inconspicuous that prove its sincerity. The friends of monarchs  
must all be chosen from among their servants as none of their  
subjects are supposed to be equal to them in rank. The  
performance of contracts & covenants precise though it is an  
act of justice is notwithstanding justly reckoned meritorious  
& a production of a degree of Friendship but that which  
most effectually consolidates it especially between unequal  
relations is either a certain manner of acting that in-  
dicates personal affection or still in a sense of justice or  
certain words of prerogation which cannot be de-  
manded in justice now both these are presumptions and marks  
of excellence & virtuous affections and that light may be  
consultatory or production of Friendship. Slaves cannot  
be members of a family because they are totally insuscepti-  
ble of friendly affections towards their masters & those in  
their turn are no less insusceptible of friendly affections.

towards them a relation that is entirely constituted by  
force & fraud is only a continuation of hostility & accord-  
ingly it was considered among the ancients in this very  
light Slaves were considered as prisoners though some-  
time at large & some time chained those who served as  
porters were chained to the doors which they bore & a gre-  
at slave in the country generally wrought in fetters lu-  
pate by the Roman law all the slaves of a family were  
answerable for each others fidelity because when their mas-  
ter was slain all of them without exception though sometimes  
amounting to many hundreds were immediately put to death  
without any trial or enquiry & they were liable to be tor-  
tured if they were supposed of the least design against you  
or of getting any thing in the house the Roman expected  
no fidelity from the order of servants & justly conceived you  
to be incapable of Friendship because their supposed relations  
to their masters was destitute of justice & hostile to virtue  
& therefore utterly incapable of being amended by friend-  
ship the Law of Jamaica at the day makes it a ca-  
pital crime for slaves even to touch for arms least  
they should learn the use of them & despise themselves  
now of the Romans had conceived that it was possible



for Slaves to be friends to their masters they would more  
have made them invulnerable for one another which in  
any great families much augmented the misery & ter-  
ror of their unhappy condition because every one of them  
was obnoxious to suffering not only from the barbarous  
passions of masters & regard to their slave but in consequence  
of those passions that were excited by others as well  
as by the conduct of all the rest. Transient affections & tem-  
porary kindness may indeed be consistent with the state  
of Slavery. The greatest Barbarian is not always a brute  
but may sometimes be subject to short fits of something

that resembles good nature hence even Indians have  
sometimes adopted their prisoners & many noble gentle-  
men of Jamaica have shown the delicacy of their taste  
by choosing negro slaves for their mistresses. It is to be ob-  
served however that the selfish affections alone are  
consistent with the state of Slavery. The Savage wants  
one to assist him in hunting in place of his ruler.  
The planter who is plain & the Jamaica Planter is a slave  
to his wealth which makes even his haughtiness & aversion  
yield to it for a time, but as slaves & their masters are  
mutually incapable of mutual esteem by the very

(Confoundedly affixed)

Leaves of nature they must also be inseparable of virtuous  
Slaves being introduced by force cannot be supposed of the  
domestic affections & accordingly all their conduct can only be  
the effect of fear or disguised hostility. To live in the  
midst of Slaves very much resembles a certain kind of  
dance that was known among the ancients which was  
performed amidst the points of naked swords, & which tho  
it should quite distinctly yet constitute a situation ex  
tremely dangerous & on ~~no~~ account defensible to a  
wise or virtuous man. our Lord represents as the  
most miserable situation that one can possibly be in when  
when his foes are those of his own household but the Slave-  
monger makes choice of this any situation & lives voluntarily  
though not indeed purely in the midst of his enemies. Enven  
omed hatred masked resentment & remembrance of quom &  
unmended injuries incessantly excite the minds of Slaves  
& ensure that hatred & their master in the highest vigour  
of strength & those passions continually working ought to  
be considered as so many barrels of gunpowder in a family  
which though harmless while kept at a distance from  
the spark the least spark may animate to destruction  
but Slave-mongers without being brave are however de-



her mind they thus become to live respectably among  
their enemies, provided they can engage them by fear in  
the service of their luxury & avarice virtuous and -

educated minds are naturally turned to  
frankness & always seeking for facts of virtuous affections.  
The very thoughts of hatred malice & resentment are disagre-  
able to them & the depth that excites them must be of  
consequence that education & sense of dignity which is proper  
to virtuous minds would not suffer them even to accept of  
service which was not dictated by duty & affection for  
his world they choose to receive services that cannot properly  
be dictated by either a state that is full of enemies can neither be  
said to be secure flourishing nor well governed & the very same  
observation equally applies to a family. To be educated among  
those whom we deeply offend & to be accustomed from our  
tender years to the exercise of virtuous affections is a preparation  
for finding the justice & beneficence. —

## Lecture 145 March the 26<sup>th</sup> 1789

On the other hand those who are educated in the exercise of contempt ha-  
bit, injustice tyranny & oppression are ready to show the same affections &  
be guilty of the same misbehaviour towards their equals tho' not on their  
power & consequently have a necessary tendency to be bad members  
of society Tyranny & Slavery are correlative & cannot exist without  
each other Tyranny is necessary to retain slaves in perpetual terror &



Slavery & subjection is necessary to keep Tyrants in tolerable good  
 humor. The Devil is mighty good says the proverb when he is  
 well pleased & in the same manner a Tyrant when he desires  
 an excused by the officious care of his slave sometimes suppress his  
 rage & exhibits for a little time some appearance of sympathy of hu-  
 man nature until he is excited by provocation when he immedi-  
 ately assumes the Barbarian in the same manner beasts of prey  
 have sometimes been tamed to a considerable degree by gentle usage  
 but the sight of blood or the least rough treatment is enough to excite  
 their savage nature & original ferocity. The most generous unrestrain-  
 ed species of friendship is if we take plain licentious persons who are entirely  
 independent of each other the ties of nature indeed are no obstacle to  
 friendship but ought on the contrary to be an excitement to it we may  
 reasonably expect to gain the esteem & good will of those who are alrea-  
 dy connected with us by ties of nature easier than those of others & the  
 matrimonial contract intensifies our honor & good faith on <sup>their</sup> side of friend-  
 ship as well as by the personal qualities which conli-  
 cates it at first inequality is fatal to friendship though the high-  
 or degree of it will bear with finding or flattery of it natural  
 affection will also sometimes bear with many ungrateful returns  
 though each of these ———— naturally tends to ex-  
 tinguish friendship & natural affection Superior qualities  
 or hypocritical & artful pretension to virtue will sometimes con-  
 siderable friendship to the unworthy but inequality discovering  
 the baseness of their souls the attachment that was rashly con-  
 tracted vanishes immediately Friendship in its higher degrees  
 implies such a free communication of our sentiments as the gene-  
 ral

and the intercourse of good

& friendship but as regard to those who are original



rality of mankind are very unfit for & therefore these degrees of  
friendship are only proper for elevated souls that are possessed  
of wisdom, generosity & disinterestedness as well as sincere affection &  
similarity of manners. The friendships of youth are commonly  
sincere & often warm; but sometimes injudicious & rarely  
firm or lasting; but when virtuous & elevated souls of similar  
manners happily meet in youth their friendships are apt  
to be the most lasting of all & acquire invincible strength from  
age & continued conversations with the virtuous who are often great  
obstacles to friendship are of the most dangerous consequence to  
youth & the closer & the stronger that these conversations are  
the greater must be the evil that will necessarily grow from  
them. virtuous men may indeed have some peculiar qualities  
& the resemblance of some virtues which may catch the un-  
wary but they are utterly unequalled while they continue  
watched for a virtuous friendship falsehood & treachery in  
particular as well as the strong appearance of a selfish spirit  
are deadly & fatal to friendship. It is not indeed a favorable  
symptom in youth to be of a suspicious temper yet in choosing  
their friends reason requires that they should guard with  
just caution a person who demands all our trusts & who ex-

such that we should honor them with our entire confidence  
all at once may be very justly suspected of a design to abuse it  
besides it is quite contrary to good breeding to display the know-  
ledge of any thing which others do not pretend to communi-  
cate to us & when the communication of a secret is violently  
defended secretly or design rather than friendship may be sus-  
pected to be the motive of such a proceeding. Several mention  
it as one of the bad practices of the Roman slaves that they used  
to pry into the secrets of families in order to be admitted & to mix  
with their usage lest they should divulge what they knew -

"Sive voluit secreta damnos alicui

"Nam lingua vales pars suprema

The best design young persons should suspect in those who  
show a great fondness to be acquainted with their private af-  
fairs is a design to betray that young person should have as  
few secrets as possible but such is the condition of human  
life that there are always many things relating to every  
one which it would be both imprudent & dangerous to divulge  
to others & the safest course that we can take with regard  
to those is to conceal them from all without interruption when  
we recommend to you to be upon of secrets there meant only  
of such things as are communicated to some & not to others



your moral conduct especially ought never to be a secret when  
young persons are engaged together — in base disgraceful  
& unbecoming designs secrecy becomes a necessary bond of union  
in order to protect their plans as well as to defend them  
from detection & punishment but when a young man is en-  
gaged in any honorable pursuit or enterprise together with  
others there will be no fear of necessity for keeping that secret  
or for apprehending or discovering

"Criminum me tu                      alius unquam

"Commissumque tuges et vena tortus et ira."

But though we ought not to pry into the secrets of others yet  
if they voluntarily intrust us with any thing in confidence we  
ought in justice as well as friendship to keep it concealed  
if such a conduct is inconsistent with justice & the right of others  
the excellency of a generous mind is this that it is able to  
refuse not to abuse even an indiscreet & improper  
confidence those who tell their own secrets can scarce directly  
complain of others for divulging them because when they  
have not been faithful to themselves they ought not to be sur-  
prised that others have not been faithful to them. A famous  
Bishop in the last age proposed a minister of state very  
much in order to get an important secret out of him  
telling him at the same time for his encouragement that

he needed to under an apprehension that the matter should go  
any farther so you can keep a secret says the Statesman Yes  
says the Bishop so can I repeat the motto & added no man  
we can only say of the person who publishes a secret entrusted  
to him that he is deficient of fidelity generosity & prudence  
as well as of strength of mind which utterly disqualifies him  
for the higher degrees of Friendship; but in the ordinary commerce  
of secret in which there are always so many complaints  
the person who tells his own secret is commonly the first offender  
& the betrayer of it only the second persons who are prone to anger  
& subject to sudden gusts of passion are very improper friends  
because their affections cannot be lasting & whatever is en-  
trusted to them they are sure to lose in the very first provocation  
Pride & haughtiness are likewise inconsistent with friend-  
ship because a proud man will never think himself suf-  
ficiently gratified nor be contented that others are duly  
sensible of the honor of his friendship besides he will be  
apt to exact such servile compliances by way of test of  
Friendship as a generous mind is incapable of submitting to

levellers. though it cannot  
annihilate either the distinctions of nature or those of for-



men must however influence little upon them - bring  
them into view as little & as seldom as possible the re-  
val of these distinctions tattered funds is commonly offensive  
& leads to quarrels & for this reason artful & ambi-  
tious men though they are extremely sensible of the distinction  
of fortune will however take care to behave with great  
respect to those who are not so they want to secure imitation  
in their conduct the appearance of real friendship which  
is jealous & impatient of superiority & disparity of talents  
may likewise be inconsistent with friendship as will as  
inequality of fortune but the same caution must be  
observed by the person who has the superiority as in the  
former case. Intemperance of every kind is an utter  
disqualification for friendship & though some drunken  
friendships may pretend to much warmth & sincerity  
they commonly end in fighting in a very short time &  
often at the very same meeting in which they commen-  
ced but the men animal sympathy of Sots & Topers  
is by no means deserving of the name of friendship  
& commonly depends entirely on the strength of the drink  
with which it was at first contracted & generally wa-

perating along with it. Souther of Dabachius & an-  
draste persons cannot admit of friendship though they  
may strengthen & ally & assist for a time by com-  
mon injuries but weakness is paid for put an end  
to them & they die a natural death in a duel. Nob-  
les & gamblers often pretend to be men of honor & will  
express very high degrees of friendship to each other yet  
the latter of these will calmly see his friend slain  
when his good looks has forsaken him & the first will  
often impeach his

the noose. Young people oftentimes do not  
consider the quality of character of those with whom they unite  
in friendship & are little sensible of the importance of that  
choice which is the cause of the extremely short continuance  
of the friendships which they contract. A virtuous friendship  
constitutes a particular relation those that are connected  
in this way ought not to consider their persons as enti-  
tled to equal acquaintanceship with their friends though they  
will always be just & in a certain degree kind to all. The  
assistance that is afforded by friends to each other ought  
always to be ready free & unsolicited for it is only when  
it is attended with these circumstances that it can be said



to grow from  
to be selected although it be immorally granted it aids  
may be said to grow from a regard to duty rather  
than from kindness men have very unequal conceptions  
of what is to be expected from friendship but those  
who are well assorted together will not be apt to  
mistake in this particular the reality & warmth  
of the affection is the best instructor & most able to in-  
form us what we ought to do in consequence of it, but  
where this is wanting all rules & definitions will be  
found entirely

show himself friendly what we  
would expect ourselves we ought readily to afford to others  
& if we do not feel ourselves capable of the duties of  
friendship we ought not to be surprised nor to complain  
that others are equally incapable of them —

to request a test of friendship. The law of morality  
will therefore be the same to every virtuous person as the  
law of nature & propriety & he will show himself in-  
capable of transgressing them in any instance or on any  
pretence whatever true friendship will teach us to re-  
spect the honor & character of our friends much more than  
their humors or present interest. We will even lead us to  
suffer that displeasure in order to preserve their uni-  
quely & reputation a base & servile complaisance is no  
part of virtuous friendship & those who either profess  
or expect it show sufficiently by this that they do not  
know when in true friendship consists & are in it.  
Only incompatible with generally & friendship like-  
wise disqualifies men for friendship the covetous man  
at best can only consider friendship as a particular  
kind of trade which he may turn to his own advan-  
tage at the expense of others it is therefore a men-  
dacious game for any one to enter into engagements of  
friendship with men of this sort because they cannot  
continue any longer than they gain by the bargain



The courteous  
man declines off & thanks that nothing can oblige him  
to part with his money now although true friendship  
has the mutual interest of the parties for its object & judge  
is not the charge which it may put them to yet  
it repudiates the views & contemplation of interest  
when it is made the chief motive for entering into friendship

~~Conclusion~~

" Simpura cum fluent rubula solis eris

" Diffidentem cecidit

" Vere jugum pentus

Persons of great fortunes are exposed to having many  
to them solely

from views of advantage merchants & ministers of state  
are still more unhappy because nobody approaches them  
except in order to ask something perhaps it might be with  
a view of buying off this kind of friends that the policy of  
Eastern Princes have on all ages put a pretty high tax upon  
their audience & appearance of friendship by enacting  
that none shall approach them who do not bring a consider-  
able escort along with them now by this means they not  
only get wholly rid of those who have nothing to give which  
is by far the greatest number but of those who cannot part

with any thing nor trust the least part of their property  
out of their own hands & of that liberality an incapable  
besides by this manner of proceed-  
ing they put it in their own power to gratify some at  
the expense of others & to give a great many presents with-  
out being at the smallest expense. Because a person who  
voluntarily brings a present is not entitled in justice  
to expect one in return nothing is fairer than a  
gift as the proverb has it & no property is more fairly  
& completely transferr'd than what is done in this way  
if any one intended to abuse dominion by a present  
in hopes to draw a greater nothing is fairer or easier  
than to draw their expectations by shewing them that  
they are not disposed to follow their example. Besides  
a person ought not to despise friendship though vice  
is a sufficient ground even for renouncing it besides  
all these qualities which if they had been human  
they would have hinder'd us from entering into  
friendship when they come to be human fully war-  
rant us to separate from those whom



infidelity to se-  
parate from those who have deceived us & intrapied  
us into their friendship by assuming appearances  
foreign to their real character. Augustus once defended  
the cause of a most infamous man merely because he  
had been his friend when he had different thoughts of  
him. Ambition or the spirit of party is the greatest disqualifi-  
cation for friendship. Selfish passions control the mind  
& whatever appearances they may assume can have no  
other or higher interest in view. An ambitious man is devoted  
only to his own interest or to the service of his party & super-  
friendships or rather the pretence of it merely as a means  
to increase the number of his followers or as a step upon  
which he may rise higher than others. We benefit from such  
a person are considered only as retaining fees for unlimited  
services & those unworthy to preserve the friendship of the  
ambitious must neither be true in their moral taste nor  
lovers of their honor & reputation because the basest  
services will often be required of them & the greatest sacrifices  
must be made on their part. But a person of real virtue  
will have at the utmost distance from all friendships of  
this kind. The object of an ambitious man is to prosper  
& aggrandize himself but he is not apt to be generous.

in the choice of the means that may contribute to this  
end & will choose the most certain & efficacious rather  
than the most just & honorable yet when such men meet  
with companions of the same character their conviction  
will sometimes have many of the appearances of either  
our friendship as the one will not be ready to demand  
any service than the other will be to perform it but the  
foundation of this base & selfish on both sides & its dura-  
tion may be very short if the master becomes incapable of  
caring for his tool or if the tool becomes useless to his mas-  
ter they one will soon pretend not to know the other  
how long since they have been acquainted or how intimate  
soever they may have been & their personal service credit &  
dignity from their friendship & will never contrast any  
conviction which they will have reason to disavow or  
to be ashamed of we in some measure partake of that with  
which we have the sense to value accordingly the praise of  
virtuous men an will not deservingly according to that  
of Cicero "pro Pulcrum est laudari a laudato viro."

In stating the Sanctions under which external  
we are assisted at large  
on the sanction of duty as divided into those of religion



that of compulsion law or property belonging to this place  
in which we propose to treat of *Politics* or the

Although all mankind are originally of one family  
yet when their number was greatly multiplied they could  
not be long governed in that manner. The head of the  
family behoved to exercise a civil jurisdiction & pro-  
mulge laws & rules.

Law of political society which im-  
mediately preceded the patriarchal. Sir Robert Filmer  
has endeavored to show not only that the primitive govern-  
ment of the world was patriarchal which need not be  
doubted but that Adam & afterwards Noah left  
to their lineal heirs

as if the same law of succession had been established from  
the beginning which took place afterwards. Because in  
very early periods of time the first born had particular  
privileges the chief of which Sir Robert contends  
was an

were obliged in conscience to submit but as unwillingly

he has given us no token by which we might discern the right Heir of Adam

goodnatured as to believe not even to the monarchs of the earth themselves unless they could show that they first in a direct line of Primogeniture from the eldest son of Heir of Adam or Noah. has endeavored to supply this defect in favor of the Royal family of France in his treatise on the antiquity of nations & the confusions of tongues.

The Abbe was labouring with no less diligence to establish his right to that spot of which he was in quest by endeavoring to derive his descent in a right line of eldest sons from Joseph

But leaving these visionary schemes which have no foundation in nature or history it must be acknowledged that the original government of human societies was patriarchal because families are more antient than Kingdoms or states & natural affection & filial reverence must have been the foundation of patriarchal authority & the commands or injunctions of the head of



the family would be reverently & readily submitted to by all his dependants but when families had multiplied into many other families & when their habitations were removed to a great distance from the residence of the Patriarch & especially after that flood when the period of human life became more contracted families became gradually more estranged from each other so that the very traditional knowledge of their common original came to be forgotten among the greater part of them if the laws of mankind had always consisted of several centuries of Pedigrees had been duly kept & conscientiously regularly supported the world would never have needed any other government than the patriarchal accordingly during the periods that elapsed from the creation to the flood it does not appear that any other sort of government than the patriarchal was established or thought of in the world. Cain having forfeited the privileges of primogeniture by the murder of his Brother the right of patriarchal dignity which then was equal to jurisdiction descended to Seth who was given or appointed instead of Able yet even the race of Cain appears to have lived under the same kind of government & the mixture of these two races produced those Giants or Goliath men who filled the Earth with violence & at last occasioned the general deluge; but when families were widely dispersed & languages divided & the

period of human life greatly shortened general commu-  
nication became impracticable & consequently the me-  
mory of their original battles would rapidly decay among  
the numerous & scattered tribes of the children of men & be  
tradition.

consequently yet contain & no monuments whatever devised  
for perpetuating the memory of past transactions. The Patriarchal  
government however as being the most obvious & natural &  
the only one hitherto thought of would continue of course among  
these feathered families but human passions interference of interest  
& mutual injuries would soon excite them to deeds of violence &  
these would immediately ensue. Others among a rude & igno-  
rant people till great distresses & confederate  
fla- was made among the new settlers contending  
for their patrimony possessions & confessions necessarily vicinity  
& natural relation as well as common sufferings would combine  
in forming various alliances both among the injured & inju-  
rious. Tribes probably resentment would not suffer either of  
these to withdraw their hostilities from each other till  
forced by extremity & in choosing chiefs to conduct their  
expeditions they would naturally tend to possess strength  
& courage to age & experience which might gradually intro-



due through Government though the affairs of mankind  
might have been somewhat differently ordered in different  
places of their dispersion.

introduced whether by violence or consent  
or necessity the power that was set up to be used to continue  
effectual means for securing the common & particular rights  
& to prevent these injuries from happening on each party for  
avoiding what they had intended to do. The sanctions of com-  
pulsory law are any forcible means employed by men to vindic-  
ate their own rights or those of others as men are unequally  
influenced by their passions & when under their dominion very  
little sensible of the rights of others. It could not be expected that  
they could be long kept in their duty by a revenue of author-  
ity.

had been trans-  
ferred from the natural father to the political chief or  
governor means therefore must have been devised to com-  
pel them to respect the rights of others who were not suf-  
ficiently sensible of the sanctions of duty & these though ex-  
tremely simple at first must have been the first element  
of compulsory law which supposed that men are well enough  
informed of their duty but refuse to comply with it from  
pride obstinacy or a desire of hurting others. now force

is the only mode of instruction of which those people are ca-  
pable who renounce the dominion of reason & imagination  
the rights of others but in order to induce the society in general  
to concur in this application of violence. The demand of the  
offending party must have been very clear & such an  
words convey very different the person of the justice of  
the government. The principle of compulsory law ought for this  
reason to be few & obvious that all men might be able  
to distinguish between law & force & between rational &  
legal authority a great strain of consent must have ta-  
ken place in the formation of the earliest governments  
even in those that owe their origin chiefly to violence  
but one man could not properly use violence to a  
number of others to induce them to become his follow-  
ers or subjects on the contrary he must have succeeded  
with a considerable number in the way of persuasion  
then have made use of their assistance to subdue  
the rest but when he had once established his authority  
it immediately became his chief interest to protect & defend  
that people that had submitted to him which could



only to be done by laws duly enacted securing the rights  
of each every person being entitled to defend himself & his  
fellow creatures may rectify any wrong instantly by force  
as the prohibition of wrongs is the first compulsory law of  
nature. now this being evident whoever for a wrong  
committed has a right by the law of nature to retaliate or pun-  
ish it & the guilty person being supposed to be condemn-  
ed by himself the avenger of wrongs may be considered as only  
executing the natural law of self-defence or to be protecting  
the rights of others any article in the state of a man which  
may be maintained by force is termed his right. now as it  
is the objects of Politics & public law to secure the rights of  
communities & individuals these rights & the means  
whereby they ought to be maintained must first be defined  
& considered in order to define what conduct & rights may  
be maintained by force conduct required or prohibited under  
the sanction of compulsory law is the subject of Jurispru-  
dence this consists of 2 parts the first of which relates to  
rights & the 2<sup>d</sup> to the duties of men. a right is such a  
relation of a person to a thing that no alteration ought  
to be made in it without his consent now the term ought

in this definition implies a sentiment of moral

our actions & we  
have naturally a sense of justice the motives of human conduct  
even in the use of force are ultimately referred to the feelings  
& judgments of the moral faculty which in all men ap-  
proves of the preservation of rights & the preventing or  
repelling of wrongs. The laws of morality therefore are the  
great foundation & source of compulsory law which it only  
applies & carries into execution & if compulsory law is ex-  
cessively directed to any other end than the preservation  
of rights & redressing wrongs & consequently is no lon-  
ger the execution or application of moral law it loses all  
its title to reverence & becomes lawless violence a right  
therefore is just a violation of a person's right as is con-  
formed to the laws of morality, & every man may defend  
his right by violence on that account now in the state of na-  
ture before the introduction of regular government the defense  
of every man's rights & the redressing of his wrongs is com-  
mitted entirely to himself & he ought to manage it ac-  
cording to the best of his knowledge & power but as wrongs were  
often committed which no single person or his family can



million or a few are all the same

in order to furnish a force  
that might at all times be equal to the task of defending  
its own rights & redressing its own wrongs as well as those of  
each individual but from the institution of civil govern-  
ment the declaration & execution of compulsory law is  
entirely in the hands of the magistrate except only in such  
cases when the right might be left & the wrong past

Maintained in  
all which cases men are still in the state of nature & are  
entitled to defend their rights & redress their wrongs in the  
best manner they are able & with such means as they  
can procure Things are the constituents of a person or the  
constituents of a persons state & to both these a man  
may have particular rights his Body for instance is a  
thing to which he has a right or constituents of his person &  
his family person & estimation are things that he has a  
right to as constituents of his state. right is such a relation as  
arises from distributive justice or the appointment of Providence  
so that a man has a right to all that God has given him &  
to all what he has acquired under the protection of his provi-  
dence without encroaching on the rights of others & therefore  
he may maintain this right by force it being the object of

commutative justice & compulsory law to support all  
those rights that are constituted by the distributive jus-  
tice of providence & to redress all wrongs that are com-  
mitted against those a regard to the rights of men is  
comprehended in the law of self preservation combined  
with the law of purity or in other words the sentiment of  
right is inseparable from our disposition to enforce our  
self & our fellow creatures wrong is a violation of right  
now the moral sentiment arising from a sense of wrong  
in our own case is exasperated by resentment & in that  
of others by indignation which is conceived on the percep-  
tion of guilt in one party & suffering in the other to defend  
our rights therefore also redress our wrongs as well as  
those of others is agreeable to the law of our nature & we  
are determined to it by this as well as directed by our natu-  
ral sentiments in the execution of it no one can have a  
right to that which is not possible or which is not real  
to demand any thing of that kind therefore as mat-  
ter of right is don't wrong as it is impossible that that  
should be any mans right which cannot exist at all  
or which is not in actual existence the right of any one.



the claim of any other to the same thing a man's soul  
Body being constitutions of his person are things to which  
he has an original primary natural & inalienable right  
& whatever things are necessary for the support or com-  
fort in a consistency with the rights  
of others & the laws of nature he has a consequent  
right too which is really included in the first because  
a right to our soul & Body would be of no use or duration  
unless it comprehended a right to what is necessary for  
continuing their union & making it comfortable  
accordingly every living man has a right to natural  
support as well as to natural life but he cannot have  
a right to the property of others for that purpose un-  
less in the case of extreme want & when other lawful  
means of procuring support others could not beget or  
had been used in vain thus in times of famine the  
state of nature returns & the right of property is suspended  
by necessity so that a man may then fight for the  
means of life & acquire them by force from those  
who are possessed of a superfluity the same state of nature  
returns on the occasion of shipwreck one may main

take a glass or part of the ship

of his life against all men  
even against the owner because it is the first intention  
of nature that a man should preserve his own life with  
all the force that private rights should cease when the  
common safety is in danger each individual obliged  
to shift for himself the right of property an individual  
while they can be maintained in a consistency with the  
primary & natural rights of others

nature ought not to  
be maintained by force against primary or original rights  
thus a person may have a good right of property to a  
fountain of water but he can have no right in consequence  
of this to hinder a stranger who is parched with thirst from  
making use of it the right of property here becomes vi-  
dualan

of men & consequently it would be a wrong to  
maintain it by force secondary or adventitious rights  
therefore ought always to be considered as subordinate  
to original ones

by force ought to  
obvious to all men that they may know both when  
they are defending their own rights & when they are



wrong is supposed in Law to know that he is doing so  
because nature has given him an opportunity of know-  
ing as much but though he may be so much under  
the power of passion as not to be sensible that he  
is doing wrong this does not in the least excuse him  
nor hinder others from defending themselves & repelling  
his attacks but he is then considered as a madman  
who has lost the use of his reason & who therefore

injury -  
This consideration is the foundation of all defence war  
as well as that of legal group every man being allowed  
by the Law of nature to defend his own rights & those of others  
negative innocents.

is the first part of our duty to the public which is enjoined  
under the sanction of common Law & as by nature  
the rights of all men are distinct from & com-  
patible with each other the person who encroaches on  
the right of others must expect that those persons  
whose right he attacks being possessed of the

same nature as himself will defend their rights  
in the same manner as he would have defended his

fraud he violate the right of others <sup>recourse to force or</sup> must expect that  
force will be used against him & ought to be conceived  
to be guard for the consequences of it. Hence that radical max-  
im of the Romans law *Omne malificium est quasi contractus*  
which signifies that a person who commits to do an injury  
has taken his issue of the consequence that the repelling  
him by force or exacting the penalty of the law upon him  
resembles the performance of a contract of which his  
committing the injury was a condition

Now the issue of this quasi contract with regard to the inno-  
cent is protection & defence in the enjoyment of their rights  
they having performed the condition by abstaining from  
injury but the issue or consequence of this quasi contract  
with regard to the injurious is that they shall be punish-  
ed the committing of the wrong being the condition on  
the issue was suspended the issue must take place of course



a right may be  
maintained by any means that an impartial &  
mercenary nature allows us to use all means without  
what we could not maintain our right but every act  
on prejudicial to the rights of others which is not neces-  
sary to the maintaining our right is a wrong & unjust  
altogether though done in the course of defend-  
ing our own right. Then if a thief who has stolen our  
property

is a thief but we  
may not take away any good that is not our own out  
of that house which we have lawfully entered as this  
is by no means necessary for maintaining our own  
right we may likewise resist those that endeavour to  
hinder us in the pursuit but we may not go out of our  
way to hurt others who do not oppress us or do any  
damage that it is not necessary for recovering our  
own rights

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Lecture 14<sup>th</sup> March the 30<sup>th</sup> 1799

The law of defence includes 3 clauses first that a wrong apprehended may be prevented 2<sup>dly</sup> that a wrong offered may be repelled 3<sup>dly</sup> that a damage done should be repaired now all these are equally necessary for the effectual maintaining any right & consequently agreeable to the law of nature under the same condition namely that of preserving the right of others as far as is consistent with maintaining our own just pretensions for instance for preventing wrongs as are not inconsistent with the rights of others must be viewed as comprehended under the law of defence imposing particular marks on our good sense & prudence & watching out them an encroachment of this kind but we cannot lay hold on any person or a mere possessor that he designs to steal our goods unless this possession is confirmed by some overt act such as his entering a house field or stable or grasping himself unlawfully for the commission of injury for doing such acts as evidently intend them to Even in the stage of the action the injury may be prevented though it has not



taken law but it cannot be punished in the same  
degree as if the actor had been complete lawless in  
so far as concerning for defence & security, that is, the  
criminal ought to be obliged to find bail for the safety  
of the prosecutor's goods for such a time as the justice law  
dictates to be necessary. In the second stage of the action  
namely when the injury is offered the criminal inter-  
diction is quite apparent & therefore the criminal may  
be resisted even unto death he is verus in elicto  
& therefore the law affords him no protection as it does  
to those who are maintaining their own right. But and  
often happens that the damage is done & the criminal action  
completed before the injured person knows of it or has it  
in his power to defend himself. The law of defence must  
extend to the actual reparation of the damage at the ex-  
pense of the criminal if it is possible & if the criminal  
can be found but when either the damage is of such a nature  
as cannot be repaired such as the loss of a man's life  
or when the criminal cannot be found the right of

compensation is qualified by necessity. In these cases  
however a punishment may be inflicted for the sake  
of example or as one exacted "in solatium damni" off  
injured but this belongs to positive law Rights may be  
considered either in respect to their subject or in respect to  
their source. In the first respect they are divided into personal  
and real and in the second they are divided into original &  
adventitious personal rights subsist in the person to whom  
they belong & relate to the constituents of his nature Every  
man has such a right of property in his own person that  
none can make any alteration in it or any disposal of it  
without his consent & this right while not forfeited by crimes  
is inalienable even by the person who possesses it so that  
liberty or the innocent use of our persons & faculties in the  
pursuit of happiness according to our own inclinations  
so far as is consistent with the rights of others is one of  
the personal inalienable & unalienable rights of human  
nature which a man cannot alienate wholly even  
by his own consent except by a crime which is equal



As a consent according to that axiom omnia iura  
sunt quasi contractus" & Now as all the rights  
of men are founded in the distributive justice of God they  
must always be understood in a conformity with that  
as well as with the rights of others. The gift that God  
has made to every man of the constituents of his own  
person is not a right of dominion but only what the  
lawyers term "usus fructus" which empowers him  
to use his own person for his own happiness & advan-  
tage but it is not a dominion dominium which in-  
cludes the power of alienation that right being in God  
only at all times & not liable to be disposed of by  
any other person except in conformity to his law &  
order the possession therefore which every man has of his  
own person by the law of nature is only an indefinite  
life at the will of the grantor which indeed gives  
the possessor a right against all others respecting  
himself to the grantor the right of returning into  
the possession of the grantor when ever he pleases

Now this supposed right or dominium servitium of  
the Lady is totally incompatible with all power of  
alienation in the possessor so that man neither an nor can  
be proprietor of this nor laws or liberties but only mere  
usufructuaries, tenants at will hence no man can  
have any right against God or any that is not derived  
from him & subject to his Sovereignty. This furnishes a  
new argument against slavery which shows that it can  
not even be made lawful by the consent of the slave  
himself a man may indeed alienate his own labour  
for a limited time on condition of his being till it is  
expired but he cannot give away or assign over to another  
that absolute property of his person because that right is not  
in himself & it is a true axiom named quod non habet  
the claimer of a state therefore pretends to have such a right  
over our person & especially as God alone by the law  
of nature can have over the person of any man whatever  
This likewise furnishes the principle argument against  
self-murder. a tenant at the will of the grantor such  
as we have shown all men to be with respect to  
be with. Respects to his Person may possess a House or  
Tenement



Instrument for any Time during the Will of the Grantor.  
It is bound to manage it during that Time "tangam bonis"  
"paterfamilias" but he has no Power to sell it to burn  
it or to pull it down or even to abandon it with-  
out the Will of the Grantor because the Boundar-  
ies of the of his Rights may be like the Surge  
with the boundaries of the right itself we may use or  
alienate what is properly our own but we can-  
not use nor alienate that which is another's  
without the express will & command of the grantor  
now god has forbidden all men by the law of self con-  
sentation to alienate their lives & liberties as when  
they perform to do so they are guilty of despising  
& contesting to their own use that which is the right  
& property of another but as we may not use our persons  
sanctities or liberty to the prejudice of the rights of  
other men much less ought we to use them to the  
prejudice of the rights of our creator which are ne-  
cessarily eternal supreme immutable & unalienable  
All the use therefore that we can have a reg

from God  
& bound by the laws of nature & morals which are  
his laws but cannot extend to any thing that is in

just either with respect to god or man Persons in law  
are divided into natural & artificial natural persons  
are single men who are constituted such immediately  
by nature itself; but artificial persons or corpora-  
tions municipalities or states which are constituted by  
positive law or the consent of those concerned now  
these latter persons as well as the former are possess-  
ors of rights which may be called personal as in-  
volving either in the community or artificial person at large  
even each of the individuals of which it consists The rights  
of natural persons subsist in the limbs & members of  
the Body in the faculties & talents of the mind & the  
lawful use of both now not only the taking away a  
man's life or liberty but also confinement wrongous  
imprisonment assault & battery meaning poisoning &  
every injury done to any of the members are violations  
of his personal rights which ought not to be done except  
for a crime which defended by the laws of society  
or for the safety of the whole but the rights of artificial  
persons subsist in their constituent members their forms  
& their laws as well as all that property which is



acted in them by the constitution of their corporation  
So that artificial persons as well as natural have  
their rights which it is as wrong to violate as those of  
individuals now the rights of individuals are sacred  
unless when forfeited by crime or legally alienated by  
themselves or voluntarily exchanged for an equivalent  
an opinion has prevailed in many of these states that the  
right & property of an incorporation or artificial person  
may be taken away by the supreme power without  
any crime or charge against said incorporation &  
without trial or hearing or examination now  
this is direct robbery & subversion of all the rights &  
property whether

& we must not with pleasure that the legislature of this  
state have now renounced all such power of seizing  
or alienating the property of incorporations & refused a  
flagrant usurpation of that power which taken place  
about 10 years ago

in the constitution of law they are equally  
capable as natural persons to possess property & to enjoy all  
the rights & privileges competent by law to natural  
persons now as no man can be deprived of his pro-

holds  
caused heard & tried by his Peers & convicted of some of  
force to execute the law awards the pain of forfeiture for the  
very same reason if there is any such thing as human reason  
no corporation shall be deprived of its constituents mem-  
bers nor of that property form or law except by a legal  
trial & conviction on a charge of high treason proved against  
them or of such other crimes as by law is declared to merit  
the pain of forfeiture to plead the will & determination  
of the Legislature or executive powers in this question is  
manifest tyranny because it supposes a right in the  
legislator to take away the property of every man however  
innocent without trial hearing or conviction yet this  
proceeding which would be accounted tyranny in England  
even in some arbitrary countries has been for a consider-  
able time a lawful

the world but to what purpose have the inhabi-  
tants of this country sought & tied in fields or mortgaged  
their estates to foreign nations & domestic speculators or to  
what purpose have they continued to pay the interest  
of their whole debt without the creditors receiving one half of  
it & all the property that they have remaining may be  
taken away from them in an instant without the shadow  
of a reason or any hearing or trial whatever but soli-  
citors & expensers of opinion are now to them to be disco-



1  
1  
went to a fault in many instances. all  
notwithstanding of the crying of fear &c the people  
of this country who would not allow a British govern-  
ment a power of taxation over them have yet com-  
plimented their own legislators with a power of anni-  
hilating or suspending at pleasure all corporations  
without

or conviction now it is most obvious that by a party  
of reasoning they may deprive any man of his life  
rights & property in the same manner & a man  
has been actually voted away by one of the assem-  
blies of these states now if this is the case when is our  
liberty?

the very persons who did the injury the late King  
James left 3 Kingdoms for the violating the charters of  
the city of London

equally fatal to any other crime  
who would attempt the like injury in the first state  
of the conflict of great Britain the people of this country

they said that they were legal cor-  
porations constituted by charter . . .

& could not lawfully be taken from them  
as they had committed no crime by which they could  
be forfeited. These arguments were quite unanswerable  
but who could have imagined that the very same peo-  
ple who so properly urged these reasons & took up  
arms in support of them

waste paper & lost with the very  
same rights which they themselves had so justly held  
to be sacred absolutely & unjustly are natives of all coun-  
tries & thrown equally in all climates & under all consti-  
tutions & forms of government

which though he should  
be invested with the robes of authority & entrusted with  
the power of making laws & trust one would think  
that was fit only for honest men mean a tyrannical soul  
will make up use of legislative power for the benefit  
of themselves & thus considerate without regard to  
equality justice or the rights of others & with regard to  
reputation as such men can have no character to lose  
they reason so far unconsequentially & unjustly in having no regard  
to it & forfeit all men men who sovereigns & commu-



of their nature & personal rights "Sed et hoc oppositum  
esset" "Real rights  
subsist in things of which any person may have the  
exclusive use & may be referred to 3 principal  
heads rights of possession rights of property & rights  
of command

Lecture 140 March the 30 1799

By the definition of Rights it is evident that there are  
certain things w<sup>ch</sup> nature has made common to all & w<sup>ch</sup> are in their  
nature incapable of appropriation & therefore cannot be the exclusive  
rights of any one, light, air, & the power of passing over the Sea  
are manifestly of this kind the use of running & navigable waters  
appear to be of the same kind though more capable of being appro-  
priated than the others the use of high ways belongs likewise to the  
same class as well as the right of demanding tolls from public  
carrs & paying for them Possession likewise constitutes a right  
but this right continues only when a thing is in actual use thus  
a chamber & an inn a seat in a boat or a stage coach or a  
berth in a ship of which we have got a valuable possession are  
part of our rights only while we possess them & may be main-  
tained against all others even by force but as soon as we

have given the them our right expires & we cannot insist to  
be restored to them by force a second time if they are then  
in the peaceful & occupancy & possession of others a settle-  
ment in a desert country is likewise of the same order it  
is a peaceful & legal possession while the first occupant

on his return eject

another settler who has taken possession of it on his absence. He  
had found it common at first & he left it such therefore the entry  
& possession of the 2<sup>d</sup> settler is as legal & warrantable as that of  
the first but the first settler has no right to re-enter by virtue  
of his former settlement because all the right which that could  
give him naturally expires by discontinuance

It is true that in this country in order to encourage the settlement  
of vacant lands the first settler is allowed a very property too to sell  
the benefit of his right & improvement but this is not the effect  
of natural but of positive law. neither does the first settler  
acquire by it any right to eject his successor who has purcha-  
sed his right of improvement possession therefore with regard  
to lands unappropriated & vacant given to the settlement  
is a temporary right which is indeed sufficient to exclude all  
others while the possessor is continued but which by the  
very nature of it expires with the discontinuance of possession  
but in order to make this possession a proper & defendable



within such Boundaries as the father & his family do really  
use & occupy otherwise a covetous man might pretend a  
right of possession to a whole continent though he has a  
small cabin in the midst of a wood & a few acres of  
cleared land at least he might pretend to as much  
as he can see on the highest eminence near it because his  
cattle may have sometimes strayed so far from his little  
dwelling perhaps these laws may need to be made more  
particular with regard to this point when land comes to be better  
cultivated & consequently of better value though at present it  
may be thought that there is not so much need of prescription & we  
now laugh & with great justice at those rights of discovery  
which were lately so much talked of in Europe & in consequence  
of which this continent was at first settled from thence the  
right of possession enjoyed by the native inhabitants though  
of an unknown antiquity was reckoned as nothing but as  
soon as an European had erected a post by the sea shore  
or hung up a plate with the arms of his sovereign upon  
an a growing tree or otherwise he had shot a deer & killed  
a fire or killed an indian the whole island or continent where  
such acts of possession were performed was held to belong to  
that nation to which he belonged or at whose expense he  
had sailed from Europe & thus were thought the possession

was immediately abandoned & not claimed again for many years then England claimed this country

same rule the great Duke of Muscovy might claim a right to the satellites of Jupiter because they were first discovered by Galileo one of his subjects & the King of Great Britain might claim a right to

Englishman that sailed up the Delaware had claimed an exclusive right to all the lands between that river & the Patowmac extending up to the north Sea his claim indeed would have appeared

as one was actually granted for countries by Charles the 2<sup>d</sup> according to boundaries that did not exist & terminated by lines that could not be drawn on the globe. The ancients no doubt had a great appetite for the possession of land but they were not quite so ridiculous as the moderns in the particular because they set no value upon desert but confined their claims &

of more Horace indeed seems to value himself a little upon being the landlord only of one leg- and thought his farm produced him as much benefit as made him happier in his own dominion than the prosperous of Africa "Est

"Unius sibi dominum prope locusta.  
But it is not probable that he would have valued -



or Panthoro though some of our great can boast  
of no other tenants than such as these. The relation between  
the person & the thing in cases of this kind being totally  
unproducible

might perhaps as well for a tract of land in  
Jupiter or Saturn or Lilliput or Laputa or perhaps if con-  
firmed by the Pope for a parish distant in consequence a  
country that is likely to be soon settled by those who pre-  
tend to be believers of

complete right ought to be termed only the founda-  
tion or beginning of a right which is in the power of  
the possessors to ripen into a right by continuance & im-  
provement. In some countries particularly in Tartary  
& we are assured that it was the same in ancient Scythia  
& the pastoral nations of Africa there is no right to property  
in land but it is cultivated from year to year by different  
possessors each of which considers his right as expired when  
he abandons or desertures the  
savage nations the case is the same & the whole territory  
is possessed & improved by the nation at large each of  
the individuals rambling about in it as the nomads

lion leads them wealth cannot properly be realized  
in a country  
that is possessed in the manner here Arabia Tartary  
& the pastoral nations in Africa have always been invari-  
able or independent a provalde too dearly bought by  
the want of property & of a regular supply of the comforts of  
life M. Moushau agrees that the only thing that renders  
men subject to Tyranny is the desire that they have of get-  
ting down in the evening in the same place when they arose  
in the morning & that of mankind ~~to~~ were led by his  
specimens they would embrace a wandering & Savage life  
than escape tyranny by a want of property & a settled  
dwelling place so that while thus Tyrants

they might in a short time  
circum the Banks of the Oxus or Indus It is to be observed  
however that the human species never can improve in a wan-  
dering state but must only & always degenerate thus  
the swiftest officers that were taken at the Battle of

have cultivated Siberia  
which was formerly a truly wilderness but on the other  
hand the plenty of the French Italians Greek & Ger-  
man who settled in Asia after the Croisades sup-  
planted the natives



softening the manners of the wandering Arabs have  
relapsed into Barbarity & lost

The inhabitants of Attica  
who were for the most part vagrants in the time of Cæsar  
where they had been reclaimed from their wandering life  
by Theseus & Solon became the most civilized nation  
in the world & the liberal institutions have marked the im-  
provement of the human character & manners in  
different ages & countries at present we have reason  
rather to apprehend a degradation of the human  
character or a return to Barbarity in this country  
from the prevailing opinion that many have of passing  
from a settled to an unsettled state the possession of fixed  
habitations close neighbours good & the establishment &  
improvement of landed property affords an opportunity  
for the improvement of the human faculties as well as  
for the culture & pleasures of social life the improve-  
ment of Arts & Sciences & every object that is definable  
to more but contrary circumstances have a tendency  
to produce & have uniformly produced opposite con-  
trary to these. It is true that there is likewise an

extreme in close society as well as in the other side -  
Large & populous cities under a lax government as  
they generally are prone to the excess of Thence the  
criminal when they can look on undisturbed as in the  
shade & solitude of the forest & prey upon the indefi-  
nite & innumerable numbers of society

or perhaps the earth &  
when ever these ends have been rationally pursued man-  
kind have always been happy in proportion to the character of  
the power has been empowered in the same degree but the far greater  
cost of mankind have either run into one or other of these  
two extremes & have

or have crawled in such num-  
bers into narrow corners as almost suffocate or trample  
down one another for want of room America at the west-  
ern extremity of the world is a striking instance of the first

latter Great Britain France Italy  
& Germany are perhaps the most favorable spots in nature for the  
displays & advantages of society on the account of the ra-  
tional & moderate distribution of their populations ex-  
cepting their great capitals which by being over crowded



poverty & misery How happy might the united states become  
if they could keep up as to flock the just middle between  
the equally hurtful extremes of too close & too scattered po-  
pulation The Romans established colonies by sending away  
the poorer inhabitants of their capital from time to time not  
withstanding which continuance it abused all that differs  
personal gratification that is so elegantly defended by Magon  
& Juvenal. Property what is the next order of personal rights  
constitutes a continual right in the absence of the greater

of men moveable property may be acquired to a certain degree  
by labour directly & performance that antecedent to commerce  
settlement & the signs of wealth property in such a state must  
at first be small burdensome hard to keep & often troublesome  
& useless. The pastoral state affords a surer kind of property  
which multiplied by the course of nature & which laid the first  
foundation of distinction of wealth among man

A man has a right to property to whatever he has  
taken from the common stock of nature & destined to his own  
exclusive use. Thus he collects spontaneous fruits to digest in  
roots to catch fish & to hunt with animals constitutes a  
right of property in his herds to the person who has bestowed  
his labour in this manner. The first which the savage has  
built the canoe which he has scooped or burned with a

stone out of a true his brow & saw the net a line  
hulled as well as the  
game itself & his dog if he has got one on his leg the right  
of property

which was constituted by his labours still remains though he  
himself were hunting at the distance of 500 miles likewise  
if he acquires landed estate or plants a small quantity of corn  
his property becomes capital & greater increase without his la-  
bour by the laws of vegetation & propagation but this is only  
for a time while the land continues in common & may be  
used by any nation indifferently but when the practice of  
agriculture has introduced landed property & when the improve-  
ment of the soil & its constant fertility becomes the object of  
the husbandman the labour & industry of men then acquires  
its highest value & produces the most extensive effects not  
only by raising a large & regular supply of provisions  
but by giving birth to a number of useful arts which con-  
tribute not only to support but to adorn & polish  
human life which afford exercise for the various talents  
& industry of man & without this a society must always  
be poor melancholy & scattered destitute of conveniences or  
plunged in total obscurity must be in a very imperfect state  
& knowledge very rare & confined while a great part of  
of profit



can be found from the first Italy of old & England of late  
have exhibited the great

agriculture & accordingly have  
grown up & encouragement to art. which flourish the  
world while space at the same time with all the advan-  
ge  
a population of almost half the world  
continues poor amidst the mine of gold & Silver England  
a small spot by means of liberty

is with beyond  
any other country in the world it has often been asserted  
that in the state of nature all things are common which  
can only be true so long as no individual what ever  
has endeavored to acquire any thing for himself & that  
the common state immediately ends on the first ex-  
ercise of application of personal industry for as every man  
has by nature a right to his own person & faculties  
this must necessarily likewise imply a right to all  
that he can acquire by them out of the common  
stock of nature which is open to him as to others  
& this must be his title to a natural & not an adventi-  
tious right because it arises immediately from the  
right which he has to his own person & does not  
ever suppose the existence of political societies  
& constitutions for else can it be derived from,

That sort of right which arises from the law of nature  
the Romans termed ius but that which arises from poli-  
tical constitution they termed ius permanens in that  
circumstance which distinguishes a right of property  
from a right of mere possession & accordingly the  
Romans

" Natium

" Uti

No man can have a right of possession for the property of  
another because the legal right merges or absorbs  
the lesser & totally excludes it now property is a  
right of the most perfect kind it must include a power

as well as under the most perfect estate yet property  
in land gives an additional security by accustomed them to  
fixed habitation as well as by enabling them to secure increase  
& multiply their acquisitions the value of property is raised  
as well as the encouragement.

distinction of right. Plato & some other  
visionary Politicians since his time have dreamed of con-  
centrating all the cares & affections of men in the public  
& of extinguishing the selfish & private affections as next



ious e

because although the law of society is indeed a part  
of our nature as well as the law of self preservation yet  
the latter is the primary or more original law to which  
the other is only additional & supplementary besides the  
law of prudence is a part of our nature as much as  
the other & this is inseparably connected with the law  
of self preservation Artificial & adventitious affections  
may indeed be grafted by policy upon those which are  
natural but they never can be strong enough to  
supercede the natural & original laws of the human  
world men must be prompted to labour by necessity  
& the principle of self preservation to which society &  
a settled situation adds the law of prudence because  
the dissensions that arise from unequal possession  
& acquisition properly commence at the introduction  
of political society. The natural rights as well as the  
natural duties of men are not confined to any state  
of society as Lord Shaftesbury very properly observes  
government Some authors particularly Mr. Muck.  
infer duties the foundation & obligation of social  
duties from the natural rights of men including  
even the social affections among those rights which

in our duty to maintain & to support but we have al-  
ready -

from the nature of the subject of them which gives  
them a foundation equally firm as the demonstration of  
a right in those that are their objects for no man can have  
a right by the law of nature to any affliction death or  
sorrow from us except in so far as that right is founded  
upon our common nature & approved by our moral  
faculty But we are not at present magnifying

from enter-  
nal principles having at large established these already  
as required under the sanction of duty but we are on-  
ly magnifying those rights that may be maintained  
by custom & that are the object of Jurisprudence or com-  
mon law

improvement constitute a right which is good  
against every private claimant but which  
ought likewise to be recognized  
& confirmed by the public This indeed has been often neglected  
& as landed property was first introduced in Europe under the  
feudal system when arts & legislation were in a very  
imperfect state The first feudal Lords refused all  
written rights & chose to hold their lands by the sword



land was to support a number of his followers or vassals,  
which constituted their importance & supported their  
dignity in the state Dr. Smith expressly observes that in  
the rude or pastoral ages a person who had as much  
property as would  
from the want of commerce to exchange or consume this  
property could actually make no other use of it than  
by really maintaining 1000 men who depending on him  
for their support

desires of his ambitious Wife & af-  
fairs were at first only the gradual servants of the pro-  
greed but acquired more important rights in process  
of time -

The quantity of land that was allotted for the sup-  
port of a Roman Citizen & his family was only 7 jugera each of  
which contained only 240 feet in length & 120 in breadth the whole  
amounting to 200,000 square feet ~~there~~ which is somewhat less than  
14 English acres now it surprises the comprehension of modern in-  
dolence to conceive how this could possibly support a family yet  
the very system of the Roman state itself would more certainly  
than that this was the exact size of their possessions but they  
were industrious & lived in a very simple manner mostly

Regulus which was authorized at the expense of the public  
while he commanded the Roman Army of Africa & such  
was the Estate of Lincinnatus from which he was called to the  
Senate office to which he returned after having repelled the  
Enemies of his country such as here was the estate of Tiberius  
maximus which he sold in order to support the credit of the  
Roman State when they were unable to furnish the price of  
the redemption of certain prisoners from <sup>for which</sup>  
liberally he is so much extolled by Cicero. Marcus Curius was  
sitting at a supper of boiled turnips when he refused the gold  
which the Carthaginians offered him for betraying his country  
toasts & potshots with a little salt meat now & then was  
their common fare & their usual drink was water & was  
the custom of such Estates that subdued all the nations of  
Italy Sicily & Africa & overcame the rich empire of Car-  
thage their Pots & tables with  
these citizens

14. Sede rusticorum

15. Poles & belli docti

16. Et sive mactum ad ar artem rusticum.

17. Portare fustis

Having so small portion to cultivate they used uncon-



man industry

can scarcely credit. Especially when  
it is considered that they had their fuel as well as their vituals  
to raise out of their small soil. This article of charge could  
not be a small one in a country subject to a given renter  
as Italy was at that time. It is true that the riches of the  
great men among the Romans were mostly acquired by the  
pillage of the nations that were conquered but the ordinary  
subsistence of the citizens was derived only by labor from  
their little farms if the Romans had used imported goods  
they surely must have been able to pay for them far less to  
have conquered the world. The cultivation & product of lands  
in China & in some parts of Holland would seem incredible  
in this country. Rights of property are maintained by com-  
pulsory law in all countries a right to command is a right  
to the service & obedience of others. The natural rights of this  
kind are the power which a man has over his own family  
which has ever been held sacred & among the Greeks &  
Romans as absolute. The adventitious rights arise from  
contract or forfeiture & will be considered afterwards. Original  
rights are the universal appurtenances of man, nature  
& coeval with his being & these comprehend all personal  
rights. If we suppose that nature desires whatever is neces-

say for the preservation of her work the right of the  
Parent to command the infant child is also original  
but in every other instance no man has any original  
right to force the obedience of another except so far as to  
oblige him to abstain or desist from wrongs. Adventitious  
rights are just as alien to man in the  
course of human life. original rights are acknowl-  
edged immediately on being mentioned but adventitious  
rights are matters of dispute & only acknowledged so  
far as they are proved. In treating therefore of adventitious  
rights we must not only enumerate their subjects but  
likewise the means by which they may be acquired  
& also the means by which such acquisition can be proved  
possessors expressly & command on all of them adventitious  
rights when considered in contradistinction to those that  
are original thought not in contradistinction to natural  
as we have shown above that all these rights exist in a  
state of nature to a certain extent, the adventitious dis-  
tinction in society are founded for the most part on pro-  
perty & command distinction from wealth will ne-  
cessarily arise in society from the unequal talents appli-  
cation & good fortune of men. In the present republic some



will be frugal temperate & industrious & will by that  
means accumulate wealth. Others again will be indolent  
idle intemperate & thoughtless & these certainly will be  
poor querulous dependent & generally wicked as proved  
by occasioned by indolence in the common temptation  
to many crimes. Morally ridiculous as well as  
unjust to think of abolishing all rights of property  
in order to secure liberty because the latter is of no value  
at all without the former the only use of liberty & the  
end of government itself is to maintain men in the  
possession of their natural & real rights; but if they are  
not allowed an exclusive right to all their lawful  
acquisition government becomes an intolerable grievance  
instead of being a benefit to them a most ridiculous &  
pernicious notion has been assiduously propagated among  
the ignorant part of the people of this country that in-  
equality of fortune & the acquisition of wealth are most  
harmful to liberty & ought to be discouraged but they are  
not sensible that this notion essentially cuts the nerves of  
industry as well as undermines the foundations of prop-  
erty a man may be said to be in the state of slavery  
whenever he is rendered incapable of acquisition & if

our industry is to be checked as soon as he has ac-  
quired a much as his indolent neighbours or if his per-  
son acquisitions are to be distributed among the idle &  
intemperate then government itself & what is called liber-  
ty would be a most unnatural state & conspiracy a  
gainst all the rights of men instead of being the best  
means to support them in the enjoyment of them now if  
every man would put himself in place of the wealthy  
& certainly has the desire of becoming such the ab-  
surdity of this notion would be equally evident to every  
understanding but it is calculated only for the idle & poorer  
sort of rogues who have no hope of property except from  
the pillage or murder of others & accordingly obtains the  
assent of many whose indolence & intemperance are  
bringing them rapidly to the same condition It is scarce  
possible to imagine a more pernicious abuse of the  
unbounded liberty of the press than the spreading of such  
notions which are totally subversive of justice & fatal  
to industry & which if generally listened to must  
destroy all property industry & government & re-  
duce all the citizens to the condition of these Manditti



in the state of Massachusetts

part of their countrymen & who  
had the impudence to call their self information be-  
cause their idleness had riden them to want &  
their indolence rendered them averse to supplying their  
want. <sup>by</sup> Labor the security of property & the protecting  
men in the acquisition & enjoyment of it & of all  
their natural & real rights all the great

means for attaining  
these ends that we pay taxes to enter into civil society. Savage  
tribes of mankind who have fairly any property have neither  
any occasion for government nor any fund to defray the ex-  
penses of it. The taxes which we pay to government are only a  
small premium for the insurance of the rest of their property  
which by this means comes to be protected by the strength  
of the public. what you have to give to the mob says the pa-  
mphlet growest give to the cat "Public taxes

& acquisition  
which in a state of nature would soon be extinguished by  
being exposed to the violence & lust of every lawless villain  
or host of villain. Hence the terror among the antients  
never justly celebrated for suppressing violence establishing  
property & introducing law & good order among men

"Mereula et Pater

"Post ingenia facta Deorum in templa rursus

"Dum terras hominumque colunt genus affera bella

"Component agros, assignant, & posside condunt.

No right can be acquired by injustice or in other words by any deed

Sovereignities have originated from more violence & that the right of conquest which is in itself a wrong is the sole foundation even of all those states in which justice is administered & properly secured by law Instead of punishing the soil for themselves Bodies of hardy & enterprising

of the fruit of their labours either by exterminating them altogether or by reducing them to a state of slavery & dependence obliging them to cultivate the soil for their masters & haughtily we can scarcely mention a colony any where in the world except the late territory of the Jesuits in Paraguay when the present inhabitants are not defended from invaders like the great monarchies as it is well that their original only in force & all the sovereignities that have been erected on their ruins have likewise been established by the same means mankind have never indeed shown any great inclination to regular & honest



living or the support of their common rights except  
when under the oppression of necessity  
of the world Tacitus remarks  
that the only bond which between the Barbarian nations in  
Germany were vast fortitudes or mutual fear. The  
Societies that have existed longest have been kept to-  
gether more by the fear of foreign invasions than  
by internal amity or upright administration of justice

Thus would never have been any need of employ-  
ing force. Mankind indeed have in general loved liberty  
that is the power of doing what was they pleased without any  
regard to justice or the natural rights of others. Thus  
associations accordingly have been almost universally  
formed either by force.

men the providence of god would not  
have permitted the for greater part of them in all ages to live  
in an absolute subjection to the will of others but for surely  
a much lesser evil that a few men called monarchs should  
have all this will than that the liberties of all  
mankind should be left unrestrained which would soon ex-  
tinguish their race altogether. Monarchs have an evident  
interest in preserving their subjects as the means of their sup-  
port & authority & it is always better for them in general

to maintain justice than to suffer men to do as they please  
which would soon prove the ruin of mankind as well as of those  
but of mankind in general were indulged with that liberty  
which they love. Must we mean the liberty of pollaying

rights of others on lust for the whole <sup>infringement of the</sup> nor even to concern  
them of this obvious truth that if all men were allowed  
to do as they pleased they would all become poor & idle  
so that at least as little could be got by robbing as by  
lawful industry & industry - labour convention & justice  
and the principle means of acquiring rights which nature  
& justice acknowledge. Indeed the origin of property in  
this country has in general been more honorable than in  
any other that we know of

inhabited by hunting  
tribes of savages who did not cultivate or improve their  
right of possession could be no bar to the entrance of those  
who did improve & possess it in a rational manner  
the improver & benefactor of the soil has certainly the  
strongest title to possess & indeed such a one as may  
property be called a divine right because it is agree-  
able to the intention of Providence that the earth should  
be improved



1  
wild game or spontaneous fruits but he can have no  
right to divide the whole country a desert for the convenience  
of his hunting especially when others arrive who can make  
a better use of it & render it capable of supporting vastly  
greater numbers of mankind than it could support  
in the savage state he has no doubt a right to his own  
subsistence but he can have no right to occupy as  
much land for that purpose as would support many  
thousands or millions of families The method of pur-  
chasing land from the savages was the humane in-  
stitution of W.<sup>m</sup> Penn & has accordingly been ad-  
mired

as being calculated to promote the peace & hap-  
piness of mankind & to put poor men easily in a  
possession that by means of industry they might afford  
them a liberal support but Penn perhaps did not  
perceive as had not wisdom enough to prevent the  
rise of a new tribe of Indians who oblige settlers to buy  
a second time from them & not from government at a  
vastly higher price than very lands which he had bought  
from the savages & for which he required

quitrents.

we mean the land jobbers who pretend to be  
up for much

views of private gain have now changed the fact of abusi-  
the it is certainly contrary to the laws of nature & as  
considerable a hindrance to the improvement & popu-  
lation of the country as the institution of purchasing  
lands from the savages was calculated to promote  
that end. The policy and that the public is  
said to have received from these men by the tax-  
ation of their imaginary property have been al-  
ready more than compensated by the profit  
which they have made by sales to settlers & by  
speculating on the ruin of public credit. The per-  
mitting so much of the lands of the state to be  
possessed under imperfect & imaginary rights &  
unfulfilled conditions is an evil that has originated  
from the greediness of the same sort of men but the  
consequence has been to render a great part of the  
lands of the state as unproductive of supplies for



what may be the ultimate issue of  
this childlike folly & mismanagement it is impossible  
to say but it is quite certain that it cannot be  
for the benefit of the public or for the preservation of  
the rights of mankind. I have already occasioned vast  
emigrations which threaten to render the territory of  
this state in a short time as much a desert as it  
was at first many of the rights of mankind by this  
mismanagement must be left in the hands of general  
involuntary & such injuries may ensue as it is not  
possible to imagine at present. Occupancy and possession  
is just a relation of person to a thing as that no  
other person can use the same thing without detri-  
ment or molestation to the occupier in the manner  
as we have shewed above a man occupies the ground  
under him the water that he drinks the  
air that he breathes the light that shines upon him  
the tract of the sea on which he sails but no one  
man can occupy the whole earth possessing them  
the atmosphere the light of day or the vast ocean —

# Lecture 150 Tuesday the 1st of March

The celebrated Mr. Selden has wasted much learning  
& a great acquaintance with antiquity on his treatise entitled  
molestation in order to support the right of the dominion  
of the sea which is pretended to be the King of Great Britain  
but the treatise of Grocius

portuguese when they pretend to the same  
right will always be most approved by all equitable men  
& friends to the rights of mankind labour is one of the origi-  
nal & natural means of acquiring property & property  
speaking includes all the rest.

"Nil sine magno uela labor dedit mortalibus"

Labour is any effort by which a person may for his own use  
fabricate or improve any unappropriated subject when  
God had designed the globe of the firmament with gold  
& precious stone he tells us that the workmanship which Vulcan  
had bestowed upon <sup>it</sup> has increased the value of the materials  
intimating that labour always gives the greatest value to  
the possession of men

"Regia solis erat"

"Clara magno"

"Matronam superabat opus —"



The right that is acquired to the fruits of our labour is  
implied in the original right which all men have to their  
persons & to the use of their talents & faculties which na-  
ture has given them in order to procure their subsistence &  
better their estate anterior to conventions men do not ac-  
quire any rights by the assistance of any formal con-  
vention that is of no effect for the right acquired is only  
to the use of what is produced more auspicious or what is not  
the effect of any care or labour if then be no convention to  
the contrary falls to the first occupier Thus a piece of land  
added to another mans property by the ruling of the ocean  
or the natural change of the course of a river which is called  
Alluvium in the Roman law has been the subject of many  
disputes among writers on the law some contending that the  
addition belongs to the proprietor of the lands to which it is joined  
others contend that it remains the property of the person from  
whose land it was separated but the belongs properly to  
public law the increase of a mans flock or herds being  
the fruit of his care is his property but the acquisition of  
new lands or islands contiguous to his property seems to be-  
long to the first occupier a man by labouring in the pro-  
perty of another cannot annul the others right on the  
contrary the very fruit of his labour if it cannot be removed

without damage to the principle

status quo

when the laborer is not employed by the owner of the subject but used as his own. In the case of convention the right is otherwise and will see by a bye. The rights of the property of a thing are derived in all countries from the trader but those of a horse from the proprietor of the soil. A person however who happens bona fide & without any intention of fraud or usurpation to employ his labor on the property of another may remove or enjoy the fruit of his labor if this can be done without detriment or inconvenience to the other. Civil conventions & constitutions accommodate the effect of auction or of laboring to the convenience of the parties & to the policy of particular states no convention indeed can be made to the prejudice of natural justice any more than against repeatability but when these are out of the question the axiom holds "actio tollit legem" —

We come now to state the laws of engagement by contract — A contract is the engagement of free parties to perform what is supposed to be lawful & in their power. Engagements are made by groups which when voluntary bind all men by the law of nature or all men naturally rely on the performance of promises. The principle which D. Warty calls the principle of civility or confidence is necessary to the



very extension of Society & universal commerce among  
men as we could have no dealings with each other if we  
could not rely on one anothers affirmations & engagements  
a promise to a person of any honour himself constitutes  
a tie that is stronger than any material possession &  
equivalent to physical necessity as he not only fastens  
his reputation among all just men by the truth  
of it but also his own good opinion & the approbation of  
his own mind which he values much more than that of  
all the world now no society either great or small  
can exist even for a little time without having good faith  
these constitute the true dignity of man & a person  
who is destitute of them does not deserve to be reckoned a  
man the fruit of labour must all be lost & the ad-  
vantages of society totally forfeited when this is at an end  
even the Bands of robbers & Pirates who possess by the  
habitual breach of justice & the violation of the rights  
of others an obligation notwithstanding for their common  
safety to be true to one another & because each of them  
has it in his power to betray all the rest all of them  
taken can not be set an example which causes one of their  
companions may turn against themselves The duty of a

promise or engagement becomes to the person accepting  
that promise part of his estate & a right breach of faith  
is a capture he is entitled to redress by force there is  
no greater symptom of degeneracy & approaching ruin  
in society than common breach of faith this extinguish  
es all former provokes hostility & engages all mankind to  
attack or avoid them what sort of men have actually brought  
that character upon this country or have avoided the pay  
ment of just debts by villainous & unjust laws they  
ought to know themselves but while this continues to  
be the general character of the inhabitants of this coun-  
try & is so will established by such a weight of unpaid  
debt abroad & at home.

The creditor we can never expect  
divine Providence. Iniquity established by law is the most  
abominable of all kinds of iniquity & foreign nations  
who have business with their property under promise  
of payment must have been paid only in exchequer or  
by fraudulent bankruptcies & cheating laws must  
hereafter avoid our shores & make us lose the con-  
fidence of our allies so that in case of any war or invasion



we would

Even bad men exalt knavery & perjury as it is necessary  
connected with meanness of soul but honor & good faith  
attract a command. The stem of all mankind not even  
excepting the beneath part of those who do not love  
to be cheated themselves though they make a trade of  
cheating others. The reputation of knavery when once  
incurred is of all others most difficult to shake off & when  
it can be traced into the very laws of a nation it must be  
supposed to be deeply rooted in the character of the people

Republic left it all to allies & when Carthage actually  
fell under the power of the Romans though by conquest & vic-  
tory none were found to wrap over its ruins or to commiserate  
its fall. The same want of good faith was the  
ruin of Troy long before

"Nec non

"Et non

"

"Munde cito desituit —

With regard to the breach of contracts the compulsory law  
of nature which in its original form is prohibitory or ne-  
gative becomes in appearance positive requiring some

actual

a men convention of that wrong which breach  
off with words involved in or constituted a contract is a mutua-  
al stipulation or agreement between two independent parties  
for what is conceived to be for their common interest having  
a double condition one to be performed by each party & by  
the transfer of a right is constituted in each party to exact  
from the other the performance of that condition which is  
usually termed by them a contract can be immorally bro-  
ken only by one party so that both parties become at once  
unable to perform their several parts respectively & each is  
worse according to the nature of the contract in that case the  
contract escapes by the act of God which can neither injure or  
fix the charge of falsehood upon any of the parties but if  
the party who promises to perform his part first does not per-  
form it he is guilty of injuring the other by breach of con-  
tract & of depriving him of his right which he had acquired  
by the contract to the performance of it & consequently he is  
bound to compensate the damage arising from the loss of said  
right if the contract be consistent that of the parties binds  
themselves to do any thing in consequence the failure of the one  
of them does not release the other from his obligation or  
absolve him from performance because whether the contract  
is for doing a piece of work or conjunctions or paying a



the person to whom the work was to have been done or the money to have been paid the right of the third party to performance cannot be altered or affected by the failure of any one of the other parties but they are both bound jointly & severally & the 3<sup>d</sup> party may exact the performance from any of them who is solvent This is the foundation of the obligation of joint & several responsibility of the members of trading companies or corporations for the debts of the society The term stipulation which is commonly applied to contracts by the ancient writers on law affords us at the same time a proof of the simplicity of ancient manners & the great honor of remote ages when any two parties had made a contract they broke a straw or stipula between them each party preserving that part of it which remained in his hand at breaking & the production of these two parts & their answering exactly to each other

But  
hazardous to  
make contracts in the ancient form of stipulation —  
the formalities of writing signing witnesses paper  
parchment sealing registration  
& penalties are all  
occasioned by the want of honesty & the inclination

that men have to break their contract & a person who is  
obliged to bind himself in all these forms now that they are  
become so numerous may be carefully suspected of a design  
to break his contract & must be a very dangerous person  
to the commonwealth But a person of real

submit to every  
condition which the law requires because he knows that he  
cannot be more strongly bound to performance by all the  
prescribed formalities than he is by a simple promise with-  
out any untiring. He relies on that the other party has upon  
his promise the confidence that he has reposed in his cha-  
racter & the right that he has acquired to the perform-  
ance as well as the baseness & guilt & infamy that is

bind an honest man  
so strongly that no additional formalities can give him  
a stronger sense of his obligation or more effectually secure  
his performance a person who breaks his contract does all  
that is in his power utterly to dissolve human society  
& to put an end to all commerce & friendship among men  
because of all others were to follow his example which  
he by doing it does all that is in his power to excite  
them to do the total extinction & dissolution of  
society is immediately taken place when a man



calls & he is ready for the commission of any crime  
whatsoever but that principle which should have  
restrained him from committing crimes is become quite  
useless & inactive

at once the criminals by their  
numbers have one another in countenance all shame is at  
an end with them & young persons or the ignorant are  
then apt to lose very much of that habitual other-  
wise of respect & breach of faith which they may have  
contracted by a virtuous education & when men once begin  
to lose all horror at crimes this acts as a gradual prepa-  
ration to commit them & condemns all sense of  
honour moral obligation the most criminal mode of  
breaching a contract is when the breach is projected & designed  
at the very making of it just as promising what one  
never means to pay or filling what one never intends  
to deliver this is formal fraud & dishonesty from the beginning  
& constitutes the basest & most deliberate breach of  
faith that can be conceived none the less much is said  
if the party breaching was not really able to perform  
even at the time of making the contract because his  
concealing this circumstance from the other party who

trusted him &

is a deliberate violation of that right which he had  
to performance nor is it any excuse for the making of a  
contract that the party who makes it was not certain of his  
ability at the making of it if he had the least probable  
reason to expect it as when a bankrupt makes a con-  
tract

such a one is evidently guilty of ex-  
posing the right & interest of his neighbour to certain loss  
& thereby constitutes himself a fraudulent bankrupt

on this crime by the law of the country but  
according to honest good faith the circumstances of both  
parties & their respective ability to perform their several  
parts of the contract ought to be known to each other at the  
time of making it & there

designation person  
& place of abode of one with whom we make a contract  
than to know his character & circumstances & the probability  
of his performing his part when a contract is made it some-  
times happens that after the party who was to act first

as when goods are ordered to be delivered at the  
place & time agreed on that the goods promised are not sent  
not produced now in this case the party who acted first is  
a loser & the other by not acting is guilty of injury or the  
breach of faith when a contract is tacit & constituted by



one party only as in the case of the consignation of goods  
to be sold or kept for the owner the consignee by accept-  
ing the goods concerned is as much bound

the most solemn contract enjoining the delivery of them to the  
law will well secure him

him by accepting the consignation  
when in making a contract the party who acts naturally  
to act first for instance the seller performs his part first  
by delivering the goods before the part of payment or  
when he consents to accept of payment at a distant day

strongly obliged to make payment at the time  
expired because the seller has trusted to his honor & veracity  
& exposed himself to the risk of losing his payment  
in case that the buyer should break his faith as to  
be trusted by a wise man is a great help to a cha-  
racter & many be of considerable use to a person enga-  
ged in trade the buyer if he has any generosity or  
sense of honor at all will reckon himself doubly obli-  
ged to the seller both for the delivery of the goods &  
especially for trusting him with confidence & perform-  
ing on his promise & if a person do not make  
payment in these circumstances the first person who

to be a breach & totally unfit to be  
trusted a second time. No plea except a contract re-  
solves for delaying the performance of a contract is a species  
of breach of faith even though the contract is after-  
wards really performed sometimes the very time of per-  
formance is of immense consequence to one may ruin  
the credit of an honest man by not keeping his  
contract with him although it should not actually  
have this effect

all credit among men the delay of  
payment of them for is real breach of faith in the  
same manner as the delay of justice is real injustice  
Then an ensuing law of contracts ordinarly mentioned  
or said that the force of conventional obligation is  
the right of one party

humanity as men by nature are  
formed for mutual confidence & disposed to rely on  
the promise of each other & as this disposition is that  
which qualifies them for society & is necessary for the  
enjoyment of its comforts those who are guilty of breach of  
faith do all that in them lies to extinguish this  
mutual confidence & to render the principle  
which leads us to it not only useless but ruinous



of human society. if the promise of the one party is not accepted by the other then there is no contract but when the parties have once trusted each other each of them gives the value of his right on the supposed faith.

That value that he will be honest as he must certainly forfeit the like value if he prove otherwise. The 2<sup>d</sup> Law of contract is that they create a right only so far as depends on the will of the contracting parties every contract has no doubt this tacit & implied condition if it be possible; but though men can not tell for certain what may be in their power at such a time yet they know certainly whether they are able at the time of making the contract & likewise whether it is probable or otherwise.

in parties these bonds then only hold binding to oblige if for when either party fails for want of power by the act of God or an accident impossible to have been foreseen this is not breach of faith, but if the want of power be voluntary

of breach of faith as when a man lingers from cleaving or throws away his creditors

cannot affect in this case there is the most deli-  
berate fraud & breach of faith even though the party be  
unable the time of performance because the inability is  
artificial & induced by himself

offered as any unforeseen accident.  
The 3<sup>d</sup> law is that in order to constitute a contract mutu-  
al promise or a promise & acceptance an necessity between  
parties acting freely & possessed of the use of their reason  
a contract must be equally the act of both parties in  
order to bind both as none can be bound except either by  
his own or by that of those to whom he has  
given power to promise for him

entrusted to contract for him he is immediately bound if  
the thing contracted for be lawful & possible

## Lecture 151 April the 1<sup>st</sup> - 1789 -

The municipal laws of some countries admit of a locus  
penitentie for example the space of 24 hours or a natural day during  
which if the one party intermits, as the other that he does not adhere to  
his contract in which case the law releases him from his obliga-  
tion but the law of nature admits no locus penitentie nor  
allows any time of refusing from the contract when one makes  
"Et semel emissum volat irrevocabile verbum" one party



may indeed be  
by the consent of the other while it is not broken but when once  
broken the cannot be released but the law demands satisfaction In  
order to make a contract both the parties must be free & independant  
of each other or the engagement or regulation of a person who is not at  
liberty is held in law to be void ab initio for this reason all  
contracts or bargains made by a person in prison over captivity un-  
less it is for his redemption or by a slave or by a person under age  
are of no force because the parties were not at their own disposal &  
had no choice at the time of making them for this reason a  
promise made to a robber by one that is in his power to lay a  
sum of money in a certain place is not binding because the person  
who makes it is in the power of the robber Then are some in-  
dud who think that even in this case the contract ought to be  
kept because the person who refuses to make it might possibly  
after all escape from the robber & they think that even to save ones  
life by a contract which one does not intend to perform is unworthy  
of an honest man but if promises extorted by force are not bind-  
ing in a state of nature which is generally acknowledged they  
cannot be binding in a state of society because no laws give any  
rights to robbers & the compulsory law of nature allows the use of  
all means that an individual is to resist & repel them Julius Caesar  
understood the propriety of dealing with robbers as he used to  
be by Pirates & carried to a certain Island in y<sup>e</sup> mediterranean

he bound himself by contract with them to deliver them a great sum of money for his ransom & at the same time intimated to them that he would return at a certain time & hang every one of them & he observed both these contracts with the strictest punctuality. General Juno to have imagined that either had no right to exact a promise to pay money from a traveller who had none about him."

It is not only necessary that the parties entering into any contract should be free & independent on each other but likewise that they should be under no constraint or obligation to another. The Election of a representative in a free republic is a solemn contract by which the person elected engages to consult with act & determine according to the fundamental laws of the state & to study to promote the public good & to maintain the rights of all the citizens according to the best of his knowledge as far as he is able. On the other hand the Electors engage to submit to the majority of their representatives & to the person who are chosen as their representatives & entitled to act to impose taxes & make laws for them during the period by the constitution & they come under this engagement whether the majority of representatives shall consist of those for whom they have given their votes or of others who have been elected. Every citizen cannot have a  
the majority must be supported even by those who have —



condition alone  
that men enter into any society & on this alone can any  
society be supported every citizen therefore by entering into society  
bonds himself to submit to the laws enacted by those who  
are either representatives or by a majority of them & when  
he has given his vote for a representative he has used all  
the powers enjoyed all the rights which any constitution can  
give him & if he complains or rebels he is guilty of breach of  
faith & of acting against his own contract because the  
deed of the majority of representatives is to all the purpo-  
ses of law the deed of every man in society & binds him as  
much as if it had been written by his own hand & signed with  
his name the ignorant are no doubt a necessary & considerable  
part in every society but those men are surely enemies of their coun-  
try who gratify upon their ignorance to make them guilty of  
dishonesty & breach of faith & induce them to stand against their  
own deed by refusing to obey the laws enacted by their representatives  
or to pay the taxes imposed by them the case is still worse and  
is equal to actual rebellion when the leaders or strikers of  
the ignorant multitude stir themselves to resist by violence  
& to insult the laws of their country. The childish assertion  
is commonly repeated by Demagogues that all power is in  
the people is a doctrine that naturally leads to pillage & robbing  
rebellion & murder & would prove very fatal to the ignorant  
who believe it if there is an executive power to support the



laws The power of making or repealing laws by themselves  
neither is nor ever was in the people because it cannot be  
exercised by them both on account of want of capacity impossi-  
bility of meeting together being necessarily engaged in other bu-  
siness accordingly no constitution attributed to the people the pow-  
er of making laws or imposing taxes in their own persons but only  
the power of electing representatives to do these things for them  
as they may choose when they please it is entirely their own  
fault if they choose unwisely persons & consequently they have  
no right to complain of what is really done by themselves for who  
would make contracts or do any business with these people who  
refuse to fulfill their contracts & who appear openly & vio-  
lently against the deed of these persons whom they themselves  
have freely chosen & commissioned to act in their name No  
talk to the ignorant therefore to endeavour to persuade them  
that the powers of legislation & execution are in them personally  
even after they have in the most solemn manner given them  
away to others is not only talking nonsense but it is promoting  
treachery & undermining the foundations of moral obligation  
one may as reasonably tell another that the property of an  
estate is still in him though he has sold it in the most  
solemn manner to another for a price that he has received  
& the other is in actual possession of it if the laws of



out the tongue it could not be more properly inflicted than on  
those persons who are daily endeavouring to stir up the ignorant  
part of the people to sedition & rebellion by telling them that  
all power is in them & that they are not bound to submit  
to the laws made by their representatives Persons who cannot be  
bound by the most solemn contract or who never intended  
to bind themselves or who claim a liberty of breaking their  
engagements when they please are completely infamous  
& incapable of being members of

degree of infamy or baseness A must  
be that of those who turning the falsehood of such doc-  
trines yet labour to instill them into the people who know  
no better than persons

the rights of individuals & of society  
act uniformly for the good of the state to the best of their know-  
ledge & judgment in as far as they are able & this engage-  
ment is accompanied with the solemnity of an oath or af-  
firmation some flatterers indeed & consequently enemies  
of the people will promise before they are elected that if  
they shall be chosen to represent them they will uniformly  
obey their instructions however contrary to justice or contra-  
dictory to each other & that they will make no abuse  
whatsoever of their own judgment but submit to be the

men vehicles of the sense or nonsense of the people who  
chose them such men make a public profession of dis-  
honesty & openly declare that what want

or to perform conditions that are contrary to themselves a  
man who is capable of promising that he will do all that  
he is inclined or that he will vote uniformly the same way with  
another person who is named before is a slave in the worst  
sense of the word & incapable of making any contracts be-  
cause his very soul & conscience are in slavery now the  
slave of the people is certainly a mean & contemptible as  
the slave of the monarch whose ally

have certainly  
incapacity of performing their  
duty by eluding men of worth for their representatives besides  
the man who promises to be dishonest for the people will  
behave be dishonest against them whenever he finds it  
his greatest interest to do so The practice of such men  
have already established it as a maxim with the ig-  
norant part of the people that no man ought to be  
chosen a representative who will not engage to renounce  
his own judgment & conscience & to be guided entirely  
by their instructions which is establishing a rule against



common sense justify their own Interest If a man  
has no judgment to act or no conscience to entitle him  
to be trusted he ought not to be chosen & if he retains  
any little that he may have or possesses to do any  
thing that he is obliged right or wrong he hardly declares  
that he has no moral principle & that he is unfit to be  
trusted & we ought not surely to then be a man ho-  
nest who himself takes care to assure us of the con-  
trary Bribery corruption or promises to submit to  
all instructions

& the like Bribery for the exacting  
of such promises ought equally to disqualify every  
man who is guilty of them from being an Elector. The  
parties entering into a contract ought not only to be  
free & disengaged but to have the use of their reason  
hence infants Idiots madmen or persons in a state  
of intoxication are incapable of making Contracts  
& all contracts entered into with such persons are null  
& void ab initio on account of the incapacity of know-  
ing at the time what they are doing many citizens  
seem to have embraced an opposite opinion but ma-  
king a solemn contract with their representatives

rationally than otherwise they would have done  
but where intoxication is involuntary it cannot be  
pleaded as a breach of the contract made by a per-  
son in that state. A Contract is a deliberate en-  
gagement undertaken by persons who can judge of its  
conditions of their own ability & willingness

now a  
child under age an idiot a madman or a man in state  
of intoxication cannot judge of the matter of a contract nor  
determine whether it is wise just lawful or feasible  
that they should fulfill the conditions of it but intox-  
ication is no excuse for electors & cannot lessen their  
obligations to abide by the men of their choice were  
that? These Electors could prove that they were all  
drunk at the time or a great majority of them

election just  
every man on his guard & if when he gives his vote  
he is actually in a state of intoxication or under inca-  
pacity of making a contract yet he cannot plead this  
as an excuse because it is of his own making now  
we have seen already that an ability of performance  
that is produced by the voluntary will of the party



another I sell you all my land for good & but mentions no  
price to be paid for them so that there is no *quid pro quo*

This is what is called

Ed a *nudum pactum* or naked contract that is destitute  
of a double condition & consequently void in law & for the perform-  
ance of it no action will lie against the promisor whom  
that maxim in law "*Ex nudo pacto non oritur actio*"

Mutual promissory implus acceptances are a contract in a *deed trans-*  
*actio* between two parties it is necessary that both of them  
should consent to it so exclusively that the one may have a  
right to exact performance of the other now mutual pro-  
missory implus & obligation, but a naked offer that is not  
accepted cannot. The 4<sup>th</sup> Law of contracts is that a party  
may either stipulate in person or by his agent or messenger or  
by any person whom he has chosen to act for him & that it  
may be made either in words actions or signs that are  
mutually understood. There is a maxim in the Roman law  
"*Quid quicque facit per alium per se facere videtur*" There  
are many concerns in life which men cannot manage by  
themselves but must necessarily commit to others just as the

management of a just subject  
first by the Sec which must be committed  
to a proper cargo or assigned to a correspondent or also the  
rights of a citizen to make laws which must be committed to his  
representative in the business of a state  
Embassadors <sup>or</sup> Plenipotentiaries now

unless the deed of  
him all mutual faith must cease among men & all business  
& contracts in the world must be laid aside unless when  
the parties can meet & transact personally with each  
other necessarily therefore has introduced the custom of acting  
by others but unless it is admitted that the act of the

the principle or employer the commissioning of him is  
essentially negatory & destructive not to say fraudulent &  
unjust If men were only attentive to the necessary  
requirements of business & the mode which nature & ne-  
cessity prescribe for conducting the affairs of men we should  
not be troubled with the absurdity & dishonesty of men  
publicly advertising that they are resolved not to  
have their contracts or engagements publicly without shame  
that they would not submit to the laws made by their  
representatives if the flatness of the people were not  
dishonest & designing they would not encourage them



consists in not being bound at all either by their  
own contracts or by the laws made by their own consent  
or in other words that liberty consists in being & despotism  
or want of sense & in being guided by whim & caprice.  
The persons who encourage these notions do not consider that  
they may one day be turned against themselves as well as  
against others -

Lect. 152 April the 1<sup>st</sup> 1799 ~

Not only Kings & Lyons have often deceived their Subjects  
when

They did not fulfill their promise or when the people discover  
when Kings  
had raised a rebellion against David the deluded multitude  
blindly followed him but when they see

the thread has lead over the wall or  
orator who appears. Sometimes one looks occasion to desire  
him to take care of himself for says he if the people get  
into one of these mad fits they will certainly kill you  
but

that says they will kill you for having  
advised them against their interest but happily for the first.

states the people never came to their senses & Demosthenes

more than for the madness of the public."

"Interdum ualget ratione uict est ubi preest"

When the agents or representatives of parties have therefore finish-  
ed any treaty or contract their superior or principles are obliged to  
abide by it & hence arose the origin of the ratification of treaties by  
which the right in ~~embassadors~~ to bind their principles is openly  
acknowledged. The words in a contract ought to be clear & plain &  
understood in the same sense by both parties for if each party were  
to claim a right to explain his own part of the conditions of the  
contract endless disputes or strife would be introduced into  
the affairs of men & no contract would have any validity on  
the contrary each party ought to understand his own part of  
the contract

to avoid & all equivocations &  
uncertainty of meaning entirely banished. The desire of doing  
this has gradually given rise to the way

these phrasal repetitions & tedious  
enumerations which render the reading of formal contracts  
disgustful but this practice instead of attaining the end pro-  
posed has had a quite contrary effect because now the  
superfluous  
& read a long time before we can find the conditions of the



attention can scarce  
discern the essentials of the bargain under the great heaps of  
rubbish & mud like sprae that is thrown over them  
so that it is much easier to impose upon mankind by  
these

plain words. hence there was first as well  
as much in the conceit of the late Dean Swift when upon  
finding that the essentials of an obligation could be expressed  
by 3 letters namely the B, A & C vowels he proposed  
these 3  
letters I, O, W. 100£ — Actions & signs were used

In trading with savage nations whose language we do not  
understand signs are certainly of great use but the same con-  
ditions are necessary with regard to actions & signs which  
we have mentioned with regard to words namely that  
they be simple clear & understood in the same sense by  
both the parties Synbolical actions adopted from the man-  
ners of early ages appear in the Roman Law as well as  
in the municipal laws of

is bound  
by the stipulation of a servant or messenger to whom  
he has given indentures or whom he has appointed

by sufficient acknowledgment of his trust. In private as  
well as in public life there is a necessity of trusting others

customs they must be distinguished by some token of our trust  
a letter of credence is the most authentic of these but when  
we deal with persons who are acquainted with our affairs

the law of England in conformity to the law of nature  
determines that we may pay with safety to any man for  
his master

us to pay a sum of money for him & if the master has pla-  
ced his confidence improperly "Sibi impetit!"

his master cannot  
be bound to repayment in case the servant should squander  
or embezzle the money  
to us who want to

or borrow goods or money in  
the name of his master we may give him what he aspires  
the master is bound to repay us even though the servant be  
convert the good & money to his own use. The 6th

ordinary sense  
is the sense in which it appears from other signs that  
they were intended to be used we have hinted at this alrea-  
dy in explaining the several ways in which contracts may  
be made. Ambiguity is common in most languages the La-  
tin is particularly famous for it & our own tongue is likewise



The French indeed pretend that their language admits of  
more precision than ours but without reason when the  
Normans made a treaty with Harthacnut King of the East

They made him promise to deliver to them the  
half of his ships of war "Dimidium navarum suarum"  
but when the treaty came to be executed instead of accepting  
of half of the number of his ships they obliged him to  
surrender

Duke of Normandy made a treaty with the  
Landgrave of Hesse who had surren-  
dered himself to him upon conditions they insisted on one of  
these conditions that they should not be liable to any im-  
prisonment but by artfully changing a letter or two in one of the  
words of this article the emperor intended

The words *Tribus e*

*Enivi*

slaughter being intended by Tacitus their King  
being

asked what he would have

Bractes on their left arms he said  
he would choose what they wore on their left hands meaning  
the Bractes but the Latins having

by throwing all their  
shades upon her & they reckoned that they had performed  
this contract because they wore rings on their left arms

The 7<sup>th</sup> Law of Contrah is that an action of any kind

is known that expletions are naturally rapid & suffi-  
cient to constitute a constitute a contract Thus in the  
time of war when things are

that state runs in some  
measures when Tribes of men are separated by Hostility  
& can not meet approach each other in safety The neces-  
sary expressions of their sentiments must be made by signs  
order in battle & signals at sea and off this kind the  
sinking colours of a ship or grounding the arms of a regi-  
ment is a sign of submission & a person who would  
join on them or offer them any assistance after these sig-  
nals of surrender would be guilty of breach of faith &  
of violating the Law of war & of nations on the other  
hand such a signal made deceitfully

for the advantage  
of the other party & then receiving Hostilities would  
be on equal breach of faith & of the Law of war. &  
if that person should do any act of Hostility he would  
lose his protection as having abused his good will &  
violated the

The 8<sup>th</sup> Law of contrah is that custom  
on all parties the law is only the explanation of the



public actions are to be explained & to explain them in  
a sense of our own in opposition to custom is a  
as custom differs the others to explain  
the signal

one which we affect to it. a great number of  
the civil conventions of men are constituted by received  
custom of their country. The laws of jurisdiction forms of  
administering justice & of proclaiming war & peace de-  
pend every where almost wholly on custom a practice in-  
troduced by force may become a legal custom for being  
such as men are reconcilable to

voluntarily it becomes a mat-  
ter of convention but practices or sufferings, to which men are  
not reconcilable & with which they are made to comply  
by force are usurpations

to be considered as matters of convention  
of this latter kind was the curfew bell

Prime England this  
that secret designs against his government might be  
formed in the night & preventing

the close of day upon hearing  
which they were obliged to cover their faces & put out all  
light & to keep them silent till morning this  
custom which was continued under the Kings of the

people contracts may be distinguished as absolute or conditional & as single or reciprocal absolute contracts are concluded by a simple promise

In treating the doctrine of contracts above we alluded most frequently to the reciprocal kind as being the largest & most comprehensive & consequently fittest to illustrate

may be made without any consideration on the other part These are likewise called gratuitous contracts as nothing is given on the other part but the promise is free

onerous or reciprocal as they lay a burden on each party It is the raising an expectation in the other party that makes these contracts competent to be enforced by compulsory law

a woman or to make a particular person her heir her bath endamages for raising y<sup>e</sup> expectation though they gave him nothing & did not even promise to give him any thing to induce him to perform his engagements

permitted to sport with the forms of serious business & engagement by making promises which they intend not to keep but the



on this head as they indulge men in allowing their wills  
as often as they please & deliver the last always to super-  
vise all the former conditional contracts except promise  
& acceptance under a condition. This condition may be  
thus be something that does not depend on the will of the  
parties or any of their voluntary actions but in other  
case the condition must take place ~~when~~ otherwise  
the contract expires & is not pleadable by the party

being performed Gaming & wagers belong to the head  
of conditional contracts though they are likewise recipro-  
cal the event of the game or the happening of the worst  
that is the <sup>of the wagers</sup> condition that  
determines the issue of these contracts Gaming indeed  
appears to be contrary to natural justice because it  
cannot have the common interest

It appears likewise to be contrary to the Law of na-  
tion in that it transfers property without any title  
or equivalent as the labour of shuffling the cards or  
the hanging ~~the dice~~ <sup>the dice</sup> is quite inadequate to the acquisition  
of a sum of money & likewise because it can never be  
beneficial to the public. The possession of a gamester  
is illegal & dishonourable as he acquires without la-

by gaming are too obvious to need mentioning. Insu-  
rance of ships houses goods is likewise among condi-  
tioned contracts the insurance of ships from accidents  
though not the effect of labour on the part of the insu-  
rer.

Therefore the insuring of ships justly  
entitles the insurer to the agreed Premium which  
lessens the loss of Trade & contractors signally  
to the good of the public by being employed by great  
numbers they

themselves which is perfectly lawfull  
as these contracts tend to the common interests of  
both parties

was doth. Thence they common-  
ly expend the trading vessels of that nation the  
practice has been often complained of

consequent-  
ly are bound to make up the loss occasioned by  
their own ships as well as those that are taken  
by vessels belonging to the crown

French it is found that  
the loss falls wholly upon

but still they contend  
that it is better for England that the Merchants of



not even at the risk of bringing all the papers of  
their enemies as well as those of their own country men  
appearances are often doubtful

boasting that  
they had ruined the French trade the greatest part  
of them did not know that 98 percent of the loss  
was paid by their own countrymen

the other last imper-  
cal contracts consist of mutual promises & mutual ac-  
ceptance. Emptio venditio & locatio conductio for ex-  
ample in the civil law belong both to the recipro-  
cal & the conditional

latter kind Emptio  
venditio is the plainest & most  
human life & consists merely in the ex-  
change of one thing for another which is supposed to  
be of equal value Barter is the most original  
form of commerce & ought indeed to be the only  
one between different nations because therefore all  
the money or signs of value in the nation that  
claim not Barter must soon pass

This is the  
case of this country at present with regard to En-

of land

wasteland hinders them from making  
goods for their own use foreign merchants furnish  
them with these goods & last get their money in return

is reckoned ~~some~~ equal to more than  $\frac{1}{20}$ th part  
of the value of the goods imported

or sign of value  
which the war had brought into this country must  
soon find its way back to Europe

of law & to regulate  
trade but as long as the foreign goods are bought  
& sold they will be imported & the buyers

away because nobody  
obliges them to buy & the merchants must either find  
away their money

or oblige our paying their debts  
which would occasion a war of reprisals or their  
being demanded with an armed

now or could not be

one buys  
& to perform all that one promises one would  
think to be a plain & easy matter yet we find that



The observation of these constitutes the foundation of  
public & private credit & the

Credit supports agriculture commerce  
manufacture but when mankind on account of  
the common breaks of faith don not trust one  
another they are in a state little removed from  
that of savages & must

endeavour deriving little or no  
benefit from society Truth & honesty as the treasure  
of a nation what enable them to combine their  
abilities for improving their condition without fear

depend on each others contracts all public efforts for  
the common good must soon cease & every one must  
strive for themselves as in the state of nature prior to  
society when Thompsons

he could not but that he  
know how to make a small town ~~here~~ to become  
a great & elegant city

arts & industry have  
a tendency to better the condition of men but with  
out truth & honesty in fulfilling contracts these  
cannot exist or be applied to the good of the -

community

and it is only a plan or an introduction  
to certain loss when contracts are not performed men can  
have only a very short time by cheating & sharpening  
upon one another Industry must cease if the labourer

by good morals as well as by  
just laws If a man sues to go to law upon any con-  
tract he makes he is sure to lose in the end though  
he should always recover because the loss of time & the  
ordinary length of suit

profits that can arise from  
the best administration of justice England is said to  
maintain 100,000, men in the law department

of all  
these though they were uniformly honest faithful & dili-  
gent would be of little consequence to that nation were  
it not for the commercial honesty that is so gene-  
rally to be found among them

Industry call its natural spirit would soon among  
them



& to procure Possession of one were assured what was the  
most effectual means for turning a barren wilderness into a  
rich & flourishing country the best answer that he could  
give would be to say that it was inhabited by an ho-  
nest & industrious people the effect would certainly & quickly  
be follow Industry must fail for want of encouragement  
or the quickness of it in

upon the use-  
fulness & necessity of common honesty because we are  
fully persuaded that the general practice of it will  
be the only & effectual — cure for the numerous  
& frequent miseries of this country

## Lecture 153 — April the 2. 1709 —

We mentioned as one of the necessary conditions of Contracts  
that the things promised must be lawful & possible the laws  
ought to be the guardians of Morals hence a promise that is  
made otherwise causum ought not to be performed & is void  
from the beginning The compulsory law of nature & nations  
ought not to be degraded by regulating the transactions  
of Robbers & Debauchees but only those of the honest tem-  
perate & industrious & if a person goes into bad company

he ought to be considered as out of the protection of the law  
as well as out of the protection of Providence & ought to blame  
himself only for all the pains & injuries that he may suffer by  
going into such company the hire of the Harlot & of the  
apostate ought never to be the object of legal investigation  
& when there is any departure from this it is pregnant w<sup>th</sup>  
most dangerous consequences & a case was brought not long  
since before Lord Mansfield in the Court of Kings Bench in  
England.

in which however the act was  
held to be void & the Court awarded payment to be made but Law  
never appears disgraceful except when it is prostituted in this  
manner to the base purpose of

~~made~~ made  
& made void any promise given or received void by the exap-  
tion of force fraud injustice & impossibility force is constituted  
by actual violence or menaces employed by the accepting party  
we have heard before that no valid contract can be made  
unless the parties are free & under no influence coercion or  
intimidation whatsoever to determine them to make a promise  
two reasons may be mentioned why contracts made in this



cannot have any  
reasonable expectation of its performance being intended a con-  
tract is the concurrence of the will of two different parties who  
are both free for doing something that depends on their will  
& to which they are agreed to be equally subjected at the time  
of making it but when a promise is extorted by force there  
is no concurrence of wills at all because the one of the parties  
cannot have any

& a contract cannot be deemed  
voluntary unless both parties were at liberty to make or not to  
make it & one who forces another to make a promise can  
not therefore have any reasonable expectation of its performance  
as by his using force he is quite certain that the will of the  
promisee does not concur to the transaction & therefore as it  
cannot be a valid contract

parties from the time of making  
till that of performance of the contract could promise himself any  
advantage from the will of the promisor hence would be quite  
unmistakably & he must be condemned by himself as he  
would think it the highest injustice to be put in the same  
situation in which he puts the other party so that he can-  
not be entitled to claim that which he would

therefore is not willing  
to perform at the making of the contract he cannot be.

bound by it Quasi the utmost force of a regular contract  
is to oblige a man to do against his will what  
he was once willing to do

contracts made by force  
is because the party who offers it commits an injury & then  
for instead of acquiring a right he may be prevented, regretted  
or obliged to make reparation no right can be acquired by in-  
justice but if force were allowed to constitute a valid  
contract one statesman & wicked man might acquire as many  
rights as he pleases by an artful & successful application  
of force & might thus become proprietor of a whole country  
or lay all the inhabitants one after another under his  
arbitrary contributions. The want of sufficient force on the part of the  
or the superiority of force on the part of the acceptor can  
never then form a right on the contrary just  
a promise when proved to have been extorted by force  
ought to subject the acceptor of it to severe penalties  
for the safety of the public. The compulsory law of nature  
for enforcing the performance of lawful & regular con-  
tracts is the foundation of offensive war

or the commission of injuries but the rea-  
son just now urged does not apply to the case of con-  
tracts entered into with one party on account of the  
wrong offered by another for by the law of nature



of another or on alliance with him we may lawfully  
oblige that party who has the command of the person who  
did us the injury even by force to make good the da-  
mage done & to enter into a contract binding him  
self to abstain from such injuries in time to come  
now a contract made in these circumstances is valid  
& binding although made by force because that force  
only became

injurious & of the unwillingness or inability  
of the offending party to make reparation thus on  
occasion of an invasion of  
a state by the subject of another whether in the way of  
pretending a right

that prince or state to whom these invaders belong to make  
compensation for the damage done & to bind himself

in time coming now this treaty tho' brought about by force is  
a binding & lawful contract as the force that is used to pro-  
duce it is involuntary & occasioned only by great violence & un-  
willingness of the injuring party to make reparation —  
the same is the case with those persons that are guilty of  
assault & battery tho' obliged to enter into a recog-

negotiated for a sum of money which is to be forfeited on their  
thus renewing the assault this contract though the  
is legal &  
binding having become necessary by gross necessity & in order to  
prevent the like in future the exception of force is like-  
wise

It was or military capitulation War being a return of the  
state of nature & all foreign Princes & states being only  
in a state of nature with respect to each other or having  
no common judge or superior on earth force must be their  
law & the "ratio ultima regum" so that what is decided by  
force among men is a sentence of the law of the state of  
nature & by the same law ought to be exacted because the  
same force which induced the contract still remains to  
compel the performance of it. for the same reason prisoners  
on their Parole tho' that was extorted

Count D'Estaing in this country during the late war was  
he having brought his Parole to the English in the  
East Indies during the former war & thus being known  
to the troops & officers under his command made  
him despised in their eyes as the French are known



exception to the validity of contracts in fraud which is  
constituted by the deceit which a party employs in or-  
der to obtain a promise. It is impossible to enumerate  
all the ways in which fraudulent contracts may be  
made mille modis as it is but as its requisites if  
y<sup>e</sup> parties entering into a contract should have  
the use of their reason on the same account they ought  
to be truly informed of the nature & consequences of the  
contract into which they are entering as it is for this pur-  
pose only that they need the exercise of their reason  
It may often happen in business that parties may  
be very unequally informed or on their guard with  
respect to the subject of the contract into which they  
enter & when any one party takes the advantage of  
his superiority of skill or information to induce the  
other to make a promise that is prejudicial to his in-  
terest this when proved voids the contract because a  
valid contract supposes both parties to be fully inform-  
ed of the nature of the engagement now this  
incapacity which we  
formerly applied to children & Idiots because a person

who is not truly informed of the nature of a trans-  
action is quoad hoc a child or an idiot

advantage of her auden-  
t ignorance is the same injury as if the ignorance were  
natural incurable & unavoidable. The Roman Law makes  
a distinction in this case which is not very easy to be ap-  
plied or applied to particular cases according to it the igno-  
rance of one party when it is unavoidable constitutes a  
fraud & invalidates a contract but if the promisor had an  
opportunity of being fully informed of the nature of the  
contract though he did not actually understand it at the  
time of making

any other excuse than *Caveat Emptor*  
or that other axiom "*Lex vigilantis non dormientibus  
est scripta*" In the ordinary contracts of Emptor ven-  
ditor it is impossible that both parties should always be  
equal or even nearly equal with respect to the know-  
ledge of what they are contracting for & therefore in  
common cases when every one at least has the oppor-  
tunity of acquiring

interest to their own skill & denies them  
relief on the exception of ignorance but when one par-  
ty trusts to the other the person who gives the information



is bound to make it good otherwise he is liable to be punished  
for making a fraudulent contract of indeed the seller  
of any sort of goods says nothing of their quality,  
the contract cannot be re-  
duced

And for it  
then the contract is voidable on account of the false infor-  
mation on which the buyer relied or tried to. The reason  
of this invalidity like those of the preceding one are these  
two 1<sup>st</sup> because a party who is known to be deceived con-  
cerning what he purchases cannot raise an expectation  
that he will perform his contract when undecieved this  
is a man sell to his neighbour a horse that is lame blind  
or otherwise blemished & unserviceable & at the same time  
warrants him to the buyer as sound & free of all blemish  
is the contract is voidable on the assumption proceeding  
from a relying on deceitful & false information. A  
Quaker is reported once to have sold a blind horse to  
a brother Quaker & every friend is not quite unwilling at  
the time under this assurance that he was free of all  
faults but when the blindness was discovered & com-  
plained of by the Buyer the Seller replied

an infirmitas I never engaged that my Horse was  
free from infirmity for we have all our infirmi-  
ties & ended this quarter we mean the seller  
or less of lands, houses ships coaches or Horses the  
lessee is supposed to or in the hire

ground falls the contract is void & the emptor cannot sue  
on the performance of the condition; but if the circumstances are  
of such a nature as may be equally obvious to either party  
in that case the lessor is not bound by any information or  
opinion which he gives concerning them as here again  
the rule rather pleads caveat emptor In using the goods  
that are locat'd lease damaged or hired the Lessor or hirer  
is bound to use them langueam bonis patet familiaris or

or abuse he is answerable for the damages but the damages  
that are incurred by the rational & prudent use of things loca-  
ted cannot be demanded of the lessor It being the use of  
the thing that he paid for the reciprocal contract of  
Emptor venditor may be considered as a standard or



Terms the Buyer  
the price the Seller the commodity, now if these 4 terms are  
thus arranged their mutual connection & dependence may  
be illustrated by the rule of three or direct proportion  
on arithmetic for if these terms thus arranged be denoted by  
the 4 first letters of the alphabet then as A is to B

as the product of multiplied  
by will be equal to that of multiplied by  
that is in legal words if the Buyer produces & pays the  
agreed price then the seller ought to deliver the stipulated  
quality & quantity of goods

on credit the arrangement is different  
for then it will stand thus as C is to D so is A to B but  
the force of the operation is still the same We thus don't pro-  
portion that is the sign of commutative justice in all civil  
contracts & all of them may be reduced to the form of  
Emptio venditio except those of the

The reciprocal or  
an Enthymem to a Syllogism now what ever breaks  
or varies this direct proportion in contracts is unjust  
& ought to be redressed so as that the just proportion

may be justified  
the crime

then making more give life life gives more

we say as  
his former innocence is to the security of his natural rights  
so is the Phoenix or criminal except to that condition  
to which he is brought to be reduced by the law or if we con-  
sider the case as occurring under municipal law, &  
not in the state of nature as above we may discover  
justice by the rules of direct proportion

the Penalty in the  
2<sup>d</sup> the commission of the crime in the 3<sup>d</sup> we discover  
the 4<sup>th</sup> term which is the sentence accordingly in a  
criminal indictment the form of a syllogism is al-  
ways used

the major the commission of the crime makes  
the minor & the sentence demanded from the conclusion  
now the sort of

law particularly of the Lex talionis which was  
adopted into the criminal law of the Jews eye for eye  
& burning for burning - Homer adopts the same  
for bribe



which could thus translate "Nec

"Quam ne - arisum arisum sua"

Phalaris the Tyrant of Agrigento in Sicily who appears by his letters that are still extant to have been a man of learning

case. When one Perillus had framed a brazen hollow statue of a Bull he made a present of it to the Tyrant that he might enclose those in it who had forsook his favor & burn them to death by fire applied from beneath Phalaris immediately

of his own invention for which action he is highly commended by Cicero & Cato - Justice is a regular Science depending upon fixed principles & essentially

Empire countries may be much varied by different circumstances as by the time of payment place of payment quality trouble expense & the like or by damage delay mistake defect or ignorance but by the doctrine of compound ratios all these things may be reduced to the

rule of proportion In contract of Locatio conductio as

he pays such as the tare & wear of a ship the wear of a house  
by  
or a horse under the care of rational & attentive person or  
the wearing of a foot under rational husbandry but if  
the lessor is guilty of waste by wantonness

of a ship  
if these subjects in a wasteful & negligent manner  
or if the hirer of a vessel or horse shall by overdriving  
overrunning or starving occasion the detriment or loss  
of said subjects justice requires that they should be  
bound to make compensation the subjects which are  
leased or hired ought at the term of the contract to  
be entire & complete in their kind or if otherwise it  
ought to be expressed in the contract otherwise it  
denies that by the law of England of a horse that is  
hired without a shoe or any part

of a horse coat or  
chafe or broken the hire is forfeited The same is the  
case with regard to a ship if it is cast away notwith-  
standing rational care



by means of

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Britain an insured

of the manner what an all for the ship is cast  
away by the public Law of Germany no rent is due  
to a landlord for that whole year in any part of which  
the enemies troops touch any part of the farm because  
the tenant bargains for protection on which account  
knowing Tenant

or to do some small damage as if it is  
looked at all the discharge the whole rent of that  
year Insurers commonly except from the accidents against

invasion & mutiny of the crew & in insuring lives the in-  
like manner except duelling & selfmurder  
or depending on the will of the party. a second reason  
why fraud ought to invalidate any contract  
in as it intervenes in breach direct or imposi-  
tion or injury - & consequently gives the party  
deceived a claim to reparation instead of creating  
a right on the part of the deceiver to his prejudice  
even when the condition of a fraudulent contract is  
not demanded the party who is deceived may have  
an action of damages against the deceiver though

# Lecture 154<sup>th</sup> April the 3<sup>d</sup> 1709

The 3<sup>d</sup> exception to contract is that of injustice which con-  
sists in the wrong which a third party would suffer from the perform-  
ance of a contract there are 4 diff<sup>r</sup> cases in which these exceptions may  
be

The first is when neither of the contracting parties was a-  
ware of the wrong this is the easiest & most favorable case In exami-  
ning the morality of external actions we have frequently put you  
in mind that the *animus injuriandi* or design of doing wrong  
is the chief ultimate object of legal censure or punishment & that  
when this can be fairly separated from an action it is not criminal  
though it may be hurtful Injustice is commonly connected with  
fraud as there can be no injustice where there is uprightness of in-  
tention. By the Romans denominating *fraus dolus malus* it is  
evident that they considered that there was a certain *dolus bonus*  
or justifiable genus of deception & that criminality of fraudulent  
action consisted in their pernicious consequence but not in the deception  
they supposed that deception might sometimes be innocent as when  
a physician assures his Patient that a necessary operation will not  
be very painful to induce him to undergo it or when he gives him  
something to eat he has an antipathy under the form or name  
of some other thing under this head likewise they reckoned those  
deceits that are practised on children to induce them to do their  
duty or to prevent their asking impudenter questions. In these in

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did the intention is manifest though with respect to some  
of them the consequences are not innocent but where the fraudulent  
intention or dolus malus can be clearly removed from an action  
it then becomes innocent though it may be inconvenient to a third  
party. Where an honest man takes away by mistake and  
the man whose property it is to be his own being deceived by  
the singularity of the colour or furniture or in the darkness of the  
night. This incident in the case that the dolus malus did not  
intervene & therefore that the inconvenience caused to another  
is purely accidental but if a person of a suspicious character in  
broad day light comes out of the company a new gold band  
that belonging to another person

got in the case it would be difficult  
to maintain that the dolus malus did not intervene in that the  
thing happened by mistake or absence of mind. In the same

the parties were a-  
ware of the deceit it then becomes impossible to suppose that they  
had any immoral intention which is the only thing that is  
punished by law so that the contract is simply &  
but no contract or promise is due either to the promisor  
or to the acceptor. The 2<sup>d</sup> case is where only the party accepting  
was aware of the wrong then if a man engages to do an  
illegal action as in the former case not knowing that it was  
illegal his obligation ceases the moment that he is con-

deceived & his ignorance of the lawfulness of the action  
exempts him from blame. Knowledge is absolutely necessary  
to intention or design "ignota nulla cupido" & when it can  
be proved that a party had no knowledge of the  
wrong then the Contract is not only void but the party  
accepting has committed an injury against the party pro-  
mising on well as against the 3<sup>d</sup> party who would have  
suffered if the contract had taken effect now both the promiser  
& the 3<sup>d</sup> party in this case would have had an action of da-  
mages against the acceptor if the contract had been actually  
performed but when this is not the case the acceptor is bound  
to find Bail for his good behaviour in order to satisfy both -  
The 3<sup>d</sup> case is when only the party promising was aware of the  
wrong & this may be divided into three 2<sup>d</sup> according to  
it it must admit of different solutions 1<sup>st</sup> If he promised  
with an intention to perform

2<sup>d</sup> If he promised with an intention not to perform  
but to plead the exception he is then injurious to the party ac-  
cepting but in either of these cases the promiser is injurious &  
an action of damages lies against him. The 4<sup>th</sup> case is when  
both parties were aware of the injustice in which both are  
concerned



conjointly & severally liable to actions of damage. Mutuum  
is a contract in which one man lends to another something  
that he promises to repay by a thing of equal value either  
of the same kind with the thing lent or

on the same of contract applies to  
loans of money corn provisions or any consumable or salable  
article which one man borrows from another under the promise  
of paying him something of equal value in return & commonly  
otherwise on the condition of paying interest for the use of what  
is lent according to a certain rate or proportion for a determined time  
now it is by these two latter circumstances that the mutuum is  
distinguished from the commodatum but we use the terms of  
borrowing & lending indifferently with regard to each having  
no term in our language to express the distinction between  
them thus in any contract of mutuum the borrower does not  
promise to return the same individual pieces of money grain  
of corn

commodities which he borrowed but only something of equal  
value in common which may be either expressed or omitted as  
the parties agree indeed if any particular species of money or good  
is expressly stipulated payment must be made in this exclusive  
kind but if only value in general is expressed then must be un-  
derstood of the current money of the country when the contract  
is made now as the possession of money may be indispensable

advantage to the Borrower a certain rate of Interest for a certain time may be demanded by the Lender & this is fixed by the Laws of the Country & the proportion with the stock of money in it to the demand

What takes place in it Where money is scarce & trade profitable the interest must be at a high rate but where money is plenty in proportion to the demands of commerce the interest must be low In England the legal interest of money is 5 per cent though the

parliamentary security & thus change of the rate of stock In the East Indies the legal interest of money is 6 per cent among the Moors it was commonly 10 The Contracts of mutuum or lending of money all the other species of mutuum being quite easy the borrower must give security to the lender not only for the principal sum borrowed but likewise for the interest agreed

personal & real. Per. Security is the honor & character of the Borrower on which the lender relies & comprehends also all his movable effects but the real security is the pledging or mortgaging a land estate

conditional conveyance of the Estate to the lender in case the sum borrowed is not repaid at a certain time If the creditor depends on the honor of the Borrower



credit & effect of the Honour are very small & yet at the  
same time he has a real Estate the Undermay at the same  
time

The feudal Law in many cases did not sub-  
ject the real Estate to mortgage debt but reserved it for  
the Heir in order always to secure a sufficient number of  
vassals to the Prince or Lord of the Soil. They likewise on  
purpose made the conveyance of real Estates very tedious  
& difficult with a view either to prevent the Proprietors  
of such Estates from mortgaging by lessening their credit  
or to tend out the patience of Creditors & keep Estates always  
in the same families.

His purpose is both for his lawful  
debt all attempts therefore to cover any part of the Estate  
of a debtor are contrary to natural justice & by the com-  
mon law of nature ought to be repelled by force but in  
the ancient feudal constitution, these regulations which were  
made by Law in order to secure Estates in the same fami-  
lies were not liable to the imputation of injustice because  
the intention was known & in the Law itself  
so that Proprietors of entailed Estates being only tenants for  
life according to these constitutions in any thing else than  
the yearly profits of their Estates during their natural lives

So that they who lent them with greater sums  
were sensible of the ability or inability of the Borrower <sup>did it</sup>  
But it is melancholy to observe that state pretending to  
honor & justice should have diffused their national cha-  
racter by creating laws with a view to disgrace the creditor of  
his person

which is a matter of chance & not of profit The Law of nature  
ought surely to be the standard by w<sup>h</sup> all municipal laws  
ought to be framed & when the w<sup>h</sup> states only ex-  
pose themselves to the contempt & execration of mankind  
by making laws contrary

personal sufficiency of the Borrower  
of money he may demand a surety to sign the contract  
along with him & to be liable of payment in his stead in case  
of failure & if he is not satisfied with one surety he may de-  
mand more untill he is satisfied because every man  
has a right to provide on what surety he will trust  
his money out of his own custody & no man has a right to  
debate to the lenders or suspension of money on that head

publick Banks then were not a few people so  
utterly destitute of common sense & so ignorant of the na-  
ture of justice as well as of property as to make an objection  
against that institution that the Banks would not lend  
their money to every Body but only as they pleased as if this

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laws of nature to dispose of their property as they please.  
- & not to lend it to any person however sufficient unless they  
choose it such Man said Snijffius never made it so ap-  
pearance in any this country as it is contrary to all ideas  
of justice tho' agreeable enough to the notions of some ig-  
norant persons to suppose that cooperation or which is  
the same thing private persons can be obliged by law  
to lend their money to every needy know that assist it  
of them

The right of property is entirely absolute & no  
man or society of men can be bound to lend their money  
to any person whatever except as they choose the stages  
& shamship publications that intend to propagate  
this notion were only Branches of a scheme to introduce  
a community of goods &c

no contract of both parties  
are not agreed now if a party be obliged to lend his money  
against his will there is a contract made by force & con-  
sequently liable to all the nullities which we have al-  
ready shown to belong to contracts of this nation which are  
real & punishable injuries instead of being the means of  
creating

than another

for want of a reason for not paying his debts & the  
might from subsequent payment in his  
But the morals of the country would be universally  
degraded & all commerce soon at an end if any person  
of country should be obliged by law to give away their  
property

Prove to the public if it were really  
applied to all things that ought to be under it & if so  
far indeed rightly applied that it punishes things

with equal propriety to those who endeavor to

disposit to na  
tural justice Gold & Silver on account of their rarity  
derivation & easy conveyance as well as the general  
esteem of them among all mankind have been a-  
dopted by all nations as the sign of wealth & the rep-  
resentatives of property in the commerce & mutual trans-  
actions of men & when honestly prevail the Bills of  
private persons or of public companies will  
equally serve the same purpose but where honestly  
does not prevail there will be no paper currency or  
it will depreciate

Since that the acceptors of such Bills  
either cannot or will not pay them out of all the im-



generally  
cunningly those that are issued by a sovereign state are surely  
the most genuine & Hazardous to be used  
evidently deficient in honor & honesty  
the Bills of a private man or the notes of a company  
can be put in first of payment or refused is the sign  
of you can be obliged by law to pay them against their  
will but who can go to law with

they please or designate the value  
of their own Bills to the loss of others whose paper cur-  
rency is entirely in the hands of private persons or public  
companies it can go no further than their credit extends

anytime for gold or silver but when  
States become Bankrupts it is only a step to their becoming  
Bankrupts or at least to make these persons Bank-  
rupts who have had the misfortune to

do not will never  
meet with people who are willing to be cheated by their  
promises. It is but a poor apology for a state not paying  
their creditors that they have been exceedingly anxious

speculators at the expense of others. This is only  
adding one crime to another but after all the mean  
art of chicanery & cheating an exhausted man must  
sooner or later by the utter ruin of their credit

of honor in the rising generation  
is a sin in other words by all the arts of Knavery is  
one of the best means for supplying public & private  
credit & for removing the manifold & heavy inconve-  
niences that arise from the want of them

or excuse. It is to no purpose for a debtor to say that  
he was robbed of his creditors money or that he lent it to

of that nature. The law ought to hasten to redress  
unforfeited to order payment to be made while  
the debtor has any property

till the demand is  
satisfied. This is entirely conformable to natural justice  
though the municipal laws of countries are

Borrower to his Creditors till his claim was satisfied  
but if Solomon had lived tiller our times in which  
debtors on the job Legislators ——— he might  
have seen the lender friends to the Borrower & Mi-  
gled the laws of the debtors making to let him

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alone till he should have <sup>discharged</sup> such  
paid his lawful debt -

When the citizen can have confidence in each other  
the lending of money upon Interest may be of great consequence  
to the public many men who are possessors of useful talents &  
arts are not however able to apply them to the benefit of the public  
for want of the command of a little money but when credit &  
confidence prevails which depends entirely on punctuality of pay-  
ments such men are easily enabled not only to exercise their  
talents but to acquire property for themselves by lawful  
industry & to instruct others by their example how to acquire  
wealth & to realize a great deal of property that was not for-  
merly in existence that agriculture might be enriched indeed  
which does not feed the husbandman himself only feeds him  
& his posterity & such a surplus as may enable him to buy  
what he wants from abroad even in this case no property is real-  
ized & nothing at all is added to the wealth of the Country when  
there is no trade that brings in money or the signs of wealth  
especially when a Trade exists that carries them rapidly  
out the money & property of that country might be in a very  
quick decline like a candle burned at both ends. now if

then is no property realized except

by small & one good reason must let every man see the  
immense extent of all his acquisitions for life. The sign of value  
not being the material product of the country cannot then  
for remain in it far less increase unless there is some pro-  
perty produced or realized here which may bring them from  
the countries where they are to be found & from we have no occa-  
sion to bring any goods now if even the best crops & the most  
extensive exportation were able to pay the debt which we  
contract abroad in one year some help at least might be inter-  
larded of <sup>our circumstances</sup> without altering the  
present system but as this is not even intended to be the  
case our affairs must be on a constant degradation & our  
debt enlarged as our money

agriculture which can only give  
us something to eat while we are wearing the unpaid for ma-  
nufactures of other countries has already increased too long but  
perhaps the total failure of credit with which we are threat-  
ened

truth that we have been playing the fool with the money is  
only the representation of circulating property & a test of the  
ballance of advantageous Trade but when there is little  
industry & few transactions among men as must neces-



commodity then can be but little money & little satisfaction  
for it but where much ~~work~~ <sup>work</sup> is done & much properly  
realized by labour the transactions of men will be a-  
mazingly numerous & extensive & the produce of these labours  
will not only supply the wants of their own country more  
but afford a considerable surplus to export to foreign nations  
which may

value in a state but where there is no fresh influx or induc-  
try to produce it the money in any country must be constantly  
diminishing without being capable of increase like a vessel  
of water with a hole in the bottom which

little time having no  
means of supply money being the produce of Industry  
will always be found when that abounds & must soon be totally  
wanting when it is not as the production of Industry fur-  
nishes the subjects of human transactions & commerce they like-  
wise furnish the signs with which it is carried on but these  
signs make no real wealth with industry & have a negli-  
gent relation to its production only a certain quantity of  
these signs is useful in any country & should the necessary  
quantity be greatly

instead of being beneficial what was the consequence  
for instance of the too great abundance of unguished money?

were to become papered  
by means of 50 or 100 Bushels of milled Dollars what is the  
the consequence? only the stagnation of all industry & a short  
fit of national madness

would go to work in the field for  
a small reward or would do the least thing to increase his Store  
The wages of Labourers & the price of provisions would rise more  
than 10 fold & we would be the most miserable society on  
earth till our superfluous wealth had found its way to  
other nations & returning necessity had obliged us to work  
for our own support money is to industry what water is to a  
mill a proper quantity of it gives life & motion but a  
larger quantity extinguishes & destroys it while the  
wages of the labourers are paid & the transactions of men  
multiplying Industry by the means increases & conti-  
nues to augment property but when there is too much  
money in the circle industry

As much money therefore or circulating signs of value as  
is necessary & an unexcessive industry is really necessary in a state but  
a greater quantity only exhausts & stifles it by rendering it  
unnecessary & promoting intemperance as a vacuum is  
necessary in the natural world for the sake of motion



great as to discourage men from labour altogether nor  
so little as to make them indifferent about it but just  
a degree of necessity as might keep them constantly  
employed now if a man can earn as much in one  
day as can support him for a week he will not even  
work two days & then only a 6<sup>th</sup> part of the work will  
be done that might have been done & so of all other  
proportions money lent on Interest can be useful only  
to the industrious the idle can have no prospect of  
so that all that is lent to him is necessarily  
& unavoidably lost thus if a man wants money only  
to buy men foreign commodities or to buy lands that  
produce nothing it is a misfortune to him when he gets  
it but a much greater misfortune to the lender who  
can have no hopes of the payment from a person whose  
circumstances can never be better & whom every rising  
price plunges more deeply in debt land is of no value at  
all if it is not cultivated or if its productions are not sale-  
able. It cannot therefore increase the credit

although therefore we hear money lenders  
in every town who would lend every one as much as they  
please yet if we have no industry they could never be

regard & though they are able to give us a great deal

other countries so that we would be just where we were again no bank or private person will ordan lend without the prospect of repayment & state money is of all others the most sellacious & hurtful because it is in the power of the meanest citizen to reduce it to nothing in a little time

Providence are continually employed in depreciating it & currency therefore that is liable to depreciation can never be for the interest of the

As Warrants & whooped upon the ruins of expensive credit no man who borrows money can ever be able to repay it except either he has some trade in which he employs it which produces a profit much larger than the legal interest or possesses an Estate of growing fertility In short the borrowed sum must be somehow employed so as to produce besides the interest a sufficient profit to the borrower to recompence him for loading himself with the payment of the principle & actually to enable him to pay it at the time stipulated but to borrow money when it does not produce greater profits than those is entirely useless unless it is merely to support ones credit for a little time which is a dismal



money without having any account of what he gains  
by it but throws it carelessly into the gross amount of  
his own property he may be ruined before he is aware  
ended

of money by those that have neither any pro-  
fitable trade or a subject of improvable fertility is only  
fraud in the borrower & ruin to the lender. To borrow  
from one person in order to pay another which is called  
in the Roman law "Versum facere" is a most  
dishonest & unprofitable trick which gives no alleviation  
to the circumstances of the borrower & can last only

manner must be very quickly exhausted. The lender  
of money if he has good security needs only to wait  
the lapse of time because the law supposes money to be  
productive as it always really is when wisely employed  
the laws of all countries have forbidden the exacting  
of compound interest as per interest on account of the  
amazing advantage that it produces to the lender &  
quickens what it must bring on the borrower  
This interest is so great as to be quite incredible ex-  
cept it were illustrated by calculation yet no  
law can hinder the lender of money from lending out

profit to them though not the same ruin to the others  
but when there is no productive industry the lending  
of money must be useful to the lender as well as to the  
Borrower. Usury is the demanding or exacting  
more than legal interest for the money lent & contracts  
made for such a purpose or on such a condition are  
void in Law yet this offence may always be committed  
with impunity as long as the lender & the Borrower  
agree together

whether they are able to pay before they at-  
tempt to borrow because it is the same degree of dishonesty  
to borrow when we do not know whether we are able to pay  
or not as it is when we know for certain that we are  
absolutely unable when men conceal their guilt from  
themselves this means so it instead of demonstrating  
it because guilt like Debt grows by neglect &  
usually exists though

borrowing money cannot therefore  
be entered into bona fide unless the borrower has carefully  
calculated & considered his circumstances & opportunities  
of gain so that he is morally certain that on the  
usual course of things he will be able to repay the



crusible & interest at the loan agreed but to  
borrow money without this certainty unequal to put  
his Mother we are now speaking of personal security  
for when a man mortgages his estate this quite  
saves because in this case the lender knows the  
nature of his security & the probability  
property from the claims

of lawful creditors or to render the sale of ~~the~~ Bank-  
rupt Estate tedious & difficult, are contrary to natu-  
ral justice & dangerous to a community. Indeed  
when money is scarce & luxury at the same  
time prevalent many men will easily

Useless contracts are hush'd to silence, but still will  
emulate in exposure to a taste for luxury, through the  
the nature of things. The law cannot govern them.

In England the lenders of money have contrived a  
device for using which puts them out of the  
reach of the law by giving out their money not as  
as a loan but for the price of a yearly annuity  
which the Borrower grows

any time by  
making payment. one of the many various ways  
of borrowing money is what is called the Contractus  
Mohatra which though long since famous in  
the civil law is still practised in many countries  
yet had not got a name

its arabic name  
The Contractus Mohatra is only a fictitious sale of  
goods contrived to cover an usurious contract when  
the Borrower applies to the lender <sup>£1000</sup> for the  
loan of 1000 he tells him that he has no money

and produces a bill to the Borrower at 1000  
£ he having no money signs an obligation for that  
sum then in order to dispose of the goods thus  
bought for 600 £ which he accordingly receives a bill ob-  
ligation for 1000 £ remains in the hands of the lender



Lender just fills & then buys back his own goods with  
out informing any other person the numerous fraudulent  
nature of this sort of contract is very easily seen but no  
law can properly prevent it as it can be committed  
at any time in secret with consent of the parties  
concerned only wisdom &

Of this kind the Jews  
are great dealers in this kind of contract but it  
is by no means peculiar to them it often serves where  
ever as a vehicle for Bribery & corruption at Elections  
on the candidate paying an immense sum for a  
very true

value In this manner a single apprentice  
has been known to have been sold in England for  
5000 £ sterling & a leg of veal for 1500 Guineas  
In all the other species of contract of mutuum except  
Borrowing of money no interest is legally due unless  
it is expressly stipulated because interest is not due  
by law for any thing except money It would be  
endless to enumerate all the different species of contract  
that occur

But all of them when understood may  
be easily reduced to *emptio venditio* or simple

exchange they that mean the right of both  
parties may be

• an allowance of all paid  
• & dishonestly will easily make a man to discover  
doubt even in its closest disguise a to assert the  
rights of man which were given them by nature  
even when entangled in the coils of municipal law

of Law fit out with these views a person who uni-  
formly in their practice they may perhaps have it in  
their power to do signal services to their country but  
in order to do this effectually they have likewise  
need of honest men which it is not in their power to  
procure The 4<sup>th</sup> exception to contract is that of im-  
possibility which extends to every thing that can

every article that exceeds the power or that does not  
depend on the will of parties now the exception of  
impossibility when the former may be offered in 1<sup>st</sup>  
case 1<sup>st</sup> when neither of the contracting parties was  
aware of the impossibility  
or secondly when only



impossibility which conduct is either quite irration-  
al or may be injurious to the party promising  
by drawing them into from a fruitless attempt  
or folly when only the party promising was aware  
of the impossibility in which case it is injurious to the ac-  
cepting party by creating vain expectations but the  
laws of nature are so imperfectly

only by accident so that contracting for impossibilities  
makes a very large part of the transactions of man  
in all ages as well as one of the most extensive kind of  
trade

accordingly outlanders  
to conjuring divination & judicial astrology have  
been very famous in most ages though it was their  
sole business

futurity which nature has hid from men  
Mankind however are so fond of knowing futurity  
that they have always listened with great eager-  
ness to such as pretended to be able to tell them any  
thing about it & not only paid them richly for  
their pretended labour but have hurt themselves with  
great care from discovering the impossibility of

that

& Witchcraft depend upon the same principle yet  
her person long to discover how long man kind have  
been lulled by them hence we know of no na-  
tion in which it was not believed that there was  
some method

that Pau-

was which has not yet been used. Armes in  
antient times were always attended

by them upon  
most occasions Calchas was the Augur of the Grecian  
Army upon Troy & Anfland attended & directed the  
providings of Alex the G in her exten-  
sive ramble thro' Asia & Africa. The Trojans in-  
deed appear to have had no Augurs though their  
allies had funeral of them in their armies Homer  
introduces Hector as expressing his distrust in augury

the East or to the West yet the rest of the Trojans  
are discontented as shew'd in augury This was a proph-  
ed given in Rome from the time of Romulus down  
to the time of Gratian a period of more than 1100.  
years

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L

The Promises of pardon & deliverance  
of contracts for impossibilities  
this & the fear persuaded the Pagan superstition & furnished the  
vast sums of money to Priests for proposing to do for them what  
could not be in the power of any man  
& the plan of the philosophy.

Here was first introduced into the world last it was become a great  
quarrel & had ruined many people as early as the reign of  
Diocletian as we are assured that a number of Priests on this  
art were banished by this order in Egypt & were in the time  
of Pope Leo the 11th alchemy was still in some order & as  
we are informed that an author presented a treatise on that  
subject to that celebrated Pope expecting a considerable  
present in money from him for the honor of the Dedication  
but the Pope only sent him 2 dozen of empty cups with  
a message informing him that a man who could make gold  
needed nothing but purses to put it in the pocket

afterwards were  
known both in the times of the Republic  
& during the Empire & though they were often  
reasoned & ridiculous  
speculations that they raised yet they had always so many

friends that these

genus humanum quod in nostra civitate per-  
venerat et semper

"Manhood must al-  
ways have some favorite delusion the ridiculous promi-  
ses of Quakers to treat all classes new systems of religion &  
government

of government in which all men should be kings have suc-  
ceeded to the delusion of former ages so that manhood are in  
fact no wiser than ever they were but have only changed  
the nature of their delusions

who tell them the truth & to admon-  
ish them thus deceives enemies. The 4<sup>th</sup> Mississippi that  
both parties are aware of the impossibility & entirely irra-  
tional & absurd yet some of the most generous transactions  
of manhood have been

liable to this exception

Continuing all the people in  
France were quite mad for opening a trade with the Missis-  
sippi though they never attempted to begin this trade.  
immense sums of money

imaginary property of the Mississippi Company  
were bought at immense prices by getting in these

holders by  
selling out their shares while they bore a high price &  
multitudes of opulent people were reduced to beggary



The same madness seized the people of England at the very  
same time as they have always displayed to be inferior to  
the people in any

that Country a Trade was entrusted to the South  
Sea & a governor & company were appointed & incorpora-  
ted. Books were opened in a number of places for receiving  
subscriptions & all ranks of people vied with each other in  
subscriptions their names & depositing their money in  
the hands of this company who promised immense re-  
turns though they undertook

considered that the English had not  
one foot of land bordering on the South Sea & that all  
the countries bordering on it were either inhabited by save-  
ges or in the possession of other nations & consequently  
could not trade with them they had indeed only the be-  
nefit of

to supply the Spanish Settlements with  
silver yet the improbability of the thing <sup>did</sup> not seem to  
occur

understanding & when the subscriptions were full  
the shares of the subscribers were bought back from  
them by others at immense advantage & even the  
shares at a still higher price & many people exhausted their

gainful & promising a scheme In a word I was not  
unable to convince the madness of the nation at that time  
The Books

corporations for such use for many other designs & other  
fantastic titles yet

These infamous deceptions I were called by  
the emphatical name of Bubbles yet found abundant in  
consequence & multiplied every day one of them was de-  
signed the governor of the company

more extraordinary I have seen several of the actual sufferers  
to them who thought persons of sense were taken in with the  
general madness

in Florence Household servant & apprentices to  
Traders men were enabled to buy the Estates of great Lords &  
persons of the greatest fortune were induced to

on that occasion if indeed  
they could be said to have had any who did not conceive  
the impossibility of the gains that were made to them

observed that  
a greater number of those persons who became rich on opo-  
den became mad than of those who were reduced from  
opulence to beggary which facts numbers

in protection & the



in the English funds under the name of S. Sea stocks  
now it is impossible to suppose that all or even a consider-  
able number of these people who were concerned in these  
undertakings did not perceive the impossibility of  
the design in which they were engaged

appears wise at  
a time when madness was on fashion besides the gene-  
ral exception to contracts which we have mentioned  
there are some particulars to conditional & reciprocal  
contracts. As 1<sup>st</sup> All conditional contracts are void if the  
condition has failed or is found to be unjust & impossi-  
ble this is only an application of the foregoing exception  
to the condition of a contract in which its performance  
is suspended all conditional contracts are susceptible  
of a double use one that of the condition taking  
place they ought to be performed and if it is not they  
are void of course now the condition being liable to  
exceptions as well as the performance that objections  
that build up against it amount equally to the avoid-  
ing of the contract as if they had related to the perform-  
ance it is to require or promise seem a lawful thing  
under an impossible condition & the same injury as  
to require or promise what is in itself unjust or impossi-

be because by the nature of

reason ignorant people are most easy to be imposed  
on by form of a conditional contract as they are often  
not able to discern the injustice & impossibility of them  
Thus an impostor pretending that he could raise the De-  
vil offered to sell this useful spirit for a sum of money  
& found one willing to purchase it at a very high  
price but when it was paid the impostor told the  
other party that the spirit was of such a nature as could  
not be communicated in words or writing

he would immediately  
send himself possessed of the spirit according returning  
to the next room he made some pills that appeared to be com-  
posed only of bread

throat could receive them so that when  
the candidate for conjuration had almost choked him-  
self by endeavouring to swallow one of them

Devil than to  
run the same risk a second time. The conditions of  
a contract may be either a mere contingency or it may  
depend on the will of either party when the condition  
is a contingency the parties may be allowed to interpose



by the Statute at the beginning the transfer of pro-  
perty by the game of chance or shall has accord-  
ingly been liberalized in all nations but never rendered  
very lawful or honorable on any. especially in it escapes  
the transactions in gaming & the game of fair play have  
nothing in them that tend to make a right according to  
the law of nation

excepted to on the score of injustice or  
want of <sup>accordingly the law of England gives</sup>  
no action against the loser to the winner of any sum above  
10<sup>£</sup> But the principle of honor which is most properly employed in  
enforcing the payment of lawful debts has been seized & ap-  
propriated by the gamblers & by this perversion & misplacing  
of things

unguarded while the most unjust claims were satisfied merely  
because they are called debts of honor by men who are entirely  
destitute of that amiable.

early promising he only becomes bound  
to perform one action in consequence of having instantly  
performed another now if men are wise  
they will make no contracts for transferring any  
of their property on contingencies except only in the case  
of insurance  
clases at Sea & in

manifested in the course of lawful  
industry If the condition depend upon the will of the ac-  
cording party he then acquires a right only on the event of  
having performed his condition In mutual contracts

from the other These exceptions are so plain as to need no  
Commentary or explication whatever The Law of acquisition  
or by forfeiture depends on

incurred either by  
breach of a contract or by committing the crime which  
has done an injury is bound to repair it & on this  
manner the injurious person has forfeited to another  
what was formerly his own right now in the case

is the first object of Justice & the second is to prevent the like  
in time coming The municipal laws of nations ought  
to pursue the same ends & in the same order no man  
can perfect by actions that are casual & unvol-  
untary just actions which are prejudicial to others are  
inoffensive not injurious a right of property is  
acquired by occupancy only

not formerly appropriated  
is acquired by labour alone while things are in



Industry appropriates the  
productions of it to the person who sets so good an  
example

from convention and from  
company. It would be widely & indeed impossible in  
most parts  
properly to the Beginning or to rectify all the wrongs  
that may have been committed in the course of  
ages because if we look a little backward we will  
find that the most part of the just rights of men  
in the world are originally derived from unjust  
the violence & usurpation

& to give a decent  
foundation to property the peaceful possession of land  
for a certain number of years is held by convention  
to be a right of property in what former manner it  
may have been originally acquired. Thus in England  
40 year peaceful possession constitutes

charter or deed what so  
ever. The Law of Consequence is necessary for securing

them at due time The <sup>to prosecute</sup> ~~of~~ Evidence & the uncertainty of  
decision are often owing to the delay of parties to prosecute  
their rights in due time & therefore the law holds it to be  
better for society that some just rights should be  
totally lost rather than that all human efforts should

by the delay of the parties be  
set for themselves the utmost effect of human law is to  
make things better but not

human rights as far as the science of law reaches but to put every  
thing without exception in its proper place belongs only to a ju-  
dicial state In balancing convenience & inconvenience it is  
much of human law an able to prevent of the greatest number  
of evils & to preserve the rights of men as far as possible yet the  
law of every country

ground unless beyond the years of prescription or  
when may entailability of same for

ambiguity of rights or the probability of ousting  
grants with to innocent parties who have acquired a right to  
them but although prescription  
& the right of the claimants yet no crime



can fall under the law of prescription but may be  
cancelled at any time when discovered By municipal  
Law & indeed

time in order to prevent vexatious  
suits which are often the offspring of private revenge or to  
prevent sentences proceeding on obscure & impotent evidence  
In the laws of finance & Police there is almost a necessity  
of establishing a short term of prescription both in  
vexatious & needless litigation. Taxes that are long  
appear always to be oppressive which if suddenly

paid, but a unsettled & chicanery policy or rather want of  
policy often leads ignorant legislators first to endeavor  
to make themselves popular by granting time for pay-  
ing taxes that they have imposed which lays others  
under a like necessity of rendering them silent or  
by uniting them altogether. Property may be transfer-  
red either by conveyance or forfeiture Conveyance is indeed  
the most natural & usual way of conveying  
rights of property but in case of debt or crime they may  
be forfeit but conveyed by forfeiture

High Treason is  
the chief crime implying forfeiture though in England

a sentence of excommunication after a year & a day has  
the very same effect but

former a conveyance transferring  
property is a conveyance. This commonly consists of two  
parts consent & delivery. Municipal Law alone can  
make any difference between the mode of conveying  
movable or real property a party who has obtained

delivery may defend  
or cause the subject in the right of the former proprietor  
but not in his own which the Law supplies to commence  
only by delivery a right of property may be conveyed by sim-  
ple delivery without deed when it is only intended to be  
conveyed in trust or the benefit of another such is the right  
of Shipmasters

to them which they may maintain  
against all others. Executors & Administrators constitute  
a will have likewise the same kind of right to  
the Testator's Estate

By the Law of Nations consent is the  
only thing required essentially in a conveyance but deliv-  
ery may be made sufficient by municipal law. The  
regard & reverence shown to last wills is only an effect  
of convention among the living though a person having



is Aunty from reason that he should make the  
time of his suspension Entry to commence only at his own  
death

by his death which admitting that it terminates  
his right yet cannot militate against the conditional con-  
veyance that was made in his lifetime These writers seem  
to rest too much on the

deceased cannot convey property be-  
cause say they the early deceased having no right the subject  
falls to the first occupier But the custom of all nations  
are against this notion

them

## Lecture 156 April the 6

The Roman Soldiers were allowed to make their wills  
 viva voce which were called Testamenta  
 might make them by sign or mark in the sand after they had  
 fallen in battle upon the testimony  
 of it the property was allowed to  
 none others but the military forms were defended with in the  
 case of or in a case of necessity a while they were  
 maintaining the rights

fair that any of their own rights should have been thereby lost. The  
privileges of the Roman soldiers incorporated into  
Juvenal who describes them as they were  
in the reign of Domitian represent them as greatly extensive &  
not a little vexatious to the other citizens. It would seem that they  
could not be judged in case of crimes except by their own officers.

"

The immunities of the Roman Catholic Clergy from the usual author-  
ity are only an exact copy of those of the Roman Soldiers in the  
decline of the Empire but the leniency of the <sup>Emperors</sup>  
Juvenal <sup>Augustus</sup> under the first Caesar who doubtless  
threw away & gave them many new privileges & it appears  
to have been greatly well advanced even in the reign of Domitian  
as appears by the advice given to them by John the Baptist  
"Do violence to no man ~~for~~ no man

believe that the  
Baptist would call  
offences to which they were  
most prone & which were most common among them as we see  
he does with regard to the publicans & the soldiers by means of these  
privileges became at last hateful to the Emperors as well as the  
citizens.

Laws among the Romans became exceedingly complicated & nu-  
merous on account of the greediness of Torquos & legacy hunters which  
last was almost a regular profession as early as the time of Augustus.



two The Moderns especially in imitation of the Romans have fallen into the same error with regard to their testamentary laws though the same practices are now far more uncommon than they were in their times. The Clergy of the Church of Rome & those of England

Causes to themselves from an imitation of the Christians who used to have all their causes privately decided by their own Bishops in order to save expense & to avoid the fear of being before the pagan Tribunals. The last class of the rights of man is the right of command we are acquainted by experience for thus the power of a man has over his wife which is the first right of it being that he can acquire is the effect of the marriage contract but his power over his children under age is more

though as a consequence of the matrimonial contract. The contract between master & servant is reciprocal & is the foundation of the masters right to command as well as of the servants right to demand his wages. The terms of this contract are such as rather mutually stipulate or as human customs establish when known. Scythian thing of Thracians. Amen. The demand the nature of the service

& the custom of the times regulates the hire of labor-  
ers a Roman Denarius that is 10 Asses appeared to  
have been the

Tobacco The civil contract or convention between the magis-  
trate & subject is likewise reciprocal protection is stipulated on  
the part of the magistrate & allegiance is submitted to  
the laws on the part of the subject & the terms are such as  
the parties negotiate in express charters & statutes or such as  
may be ascertained by known customs

of Antiquity are now  
entirely generally applied even in arbitrary countries & as man-  
kind appear to be verging to the contrary extreme of anarchy  
& confusion perhaps they need now to be put in mind of the rights  
of others & the duties which they owe to society & to the laws  
simple manners esteem confidence & the lustre of great  
characters first introduced arbitrary government which be-  
ing at length carried to intolerable heights & producing

to enquire into their own natural rights The contrast be-  
tween the foreigner & the subject is of the last kind & a-  
rises out of various circumstances to which a fixed meaning  
is annexed by custom Thus a man by being born  
or by living in any regular society becomes ipso facto



for the protection which he enjoys among in the use  
of his natural rights. It would be strange in-  
deed if any person should be free from the ob-  
ligation. The policy of a state requires that all persons  
residing in its territory even though they belong to another  
state should consider themselves not as enemies  
but

which they reside. A man therefore residing in any  
state necessarily comes under the laws of that state otherwise  
he must imagine that he has a privilege above  
others of being to nothing while others are bound  
to him but the laws that bind him he ought to  
consider as equally kind to him  
the customs except the rights of property he  
must consider as relating to him as well as to  
others. The charters & statutes express the sense of the so-  
vereign & legislator & the last exceptions of these very  
people qualify them. all the forms of a reciprocal contract  
Persons commonly expect that great regard will be paid  
to their words & they should not subjects lay hold on such  
of them as make for themselves in those declarations  
that are so often made by all sovereigns of the love

that they have for their people

The Social compact from which according to some writers the mutual duties of men are derived is a mere fiction in

by which a plea which arises from one source is sustained as arising from another. The social compact is but another word for the law of nature to which some authors have indebted logic more solemnly by supposing it to have been formally agreed to by every one entering in

Society is still a fiction of the same kind because all men are born in some society & consequently have no choice whether they should enter into it or not for of the terms

but all men being born under the same law of nature & the same moral law must be under the same obligation not to do injury & to observe the rules of natural justice as if they had entered into a most solemn contract for that purpose. Whence in the Roman Law the mutual pleas of guardian & ward which arise from equity were explained as arising from contract though then never was in reality any contract prior to the establishment of Society Custom Charters



of Statutes

actions of men are all posterior to the establishment of  
society some think that though freedom of law may  
be convenient & in some degree necessary in arrang-  
ing civil actions they are of no use in explaining the  
laws of nature for by the law of nature every obligation  
is admitted only when it is real & can receive no  
corroboration from any fiction whatever In the opinion  
of those writers the original rights of men founded in this  
nature & the right of every person to defend himself are  
so far from gaining force by being referred to a suppo-  
sed convention that they are actually weakened by it  
In the controversy in England about 100 years ago on  
occasion of the last revolution this question was hotly  
handled on both sides but it was then in a great  
measure new & almost all the  
were on the side of absolute monarchy except those  
who wrote in republics on this occasion the one side  
called for the production of the original social con-  
tract  
unable to produce it but the Magna Charta of En-  
gland was of great use to them on this occasion &  
the Bill of rights established at the revolution -

Prerogative as well as the other Privileges of the King  
The right to command in  
a state ought to be denied to the person who is in possession  
of it from the consent of the people on one part & his  
public acknowledgement.

of the civil laws of the state on the other  
whence coronation oaths have always been in use in mo-  
narchical countries & the custom of publicly asking  
the people whether they will have such a one for their  
King is as most.

necessary to constitute the rights & authority  
of magistrate. The law of nature, which defines the ori-  
ginal rights of man must however be conceived as  
binding upon all without any.

that a society have given the right of  
command or supreme magistracy over themselves to a  
single person & he there as most of them have done  
without any.

Prerogative so chosen must forever be under an obligati-  
on to respect & enforce the natural rights of men &  
to administer justice faithfully though he never came



Governments who have received from the people the  
right of command ought to exercise it according to  
the laws not merely because it is their right but be-  
cause the interests of society require the strict & faith-  
ful exercise of it. In this country where government  
is almost entirely new & commonly very ill understood  
it has been generally understood on the other hand that  
magistrates defend commendations

this fact notwithstanding many will  
have already arisen the laws have become a mere gift  
& the power of the representatives of the people to impose  
taxes has been publicly despised by those who

& taxes have been  
imposed that have never been submitted to even by the  
Electors of these representatives who imposed them. It can be  
no wonder therefore that our debts are unpaid & that

opportunity to subdue us when the laws have left all  
from & our boasted union is become a mere rope of sand  
In England

activity providing that he acts always according to law

in proportion as he appears adher to the nation of a Broom  
stick but no laws or government can be of any use to y<sup>e</sup>  
people while they are not executed & the want of revenue  
may be felt when it is too late when our allies demand  
payment in a disagreeable manner

speculated only for present convenience  
may without the least consideration of futurity trust those who  
have the administration of the laws are entirely useless to the  
public if they show their power only by not acting  
or magistrates altogether. The  
right of command in the magistrate whether it be conveyed  
in arising from the fiction of the social compact or from express  
charter & statute or established customs is the same in the ge-  
neral & all subordnate magistrates. The execution of the  
laws is committed to them by the constitution in their  
several places & subordinations. But the allegiance  
& obedience of the subjects is not more binding upon  
them whether expressed by oath

is binding on the other

The Contract is reciprocal & when one of the Parties  
neglects the performance of it on his part he has no  
right to exact performance  
of England allegiance & protection



the just. The subject cannot be protected in the enjoyment  
of his rights in any other manner than by the due execu-  
tion of the laws which are the great security of the rights  
& property of the subject & this execution is incumbent on  
the magistrate.

private persons. The public revenues  
are the source of defence & if that is de-  
frauded either by

of the magistrate that latter is as much  
to blame as the governor of a port would be who would  
suffer that place that was committed to him by the  
state to be taken for want of ammunition &

the obligation to  
act & execute the laws is equally incumbent on all  
of them & will be felt as such when they happen to  
be capable of their being or have any sense of honor & jus-  
tice. The execution of the laws in a well governed state  
ought to be like a machine that acts irresistibly  
whenever the magistrate sets in motion & which  
every man in the state is bound to assist in work-  
ing.

The laws are as great as if a man were to cut off his

our right hand with his left one as every obstruction  
of every man  
right the magistrate says Cicero is a speaking law &  
the law is a dumb magistrate but if the magistrate  
happen to be as dumb as the law he is really worse than  
useless

employed to prevent every abuse of power by throwing  
innumerable checks & stops in the way of the magis-  
trate asking but alas they are not aware that there  
is an extreme on the one hand as well as on

of a Cautious & that  
while they relax all the nerves of authority & provide  
with an absurd imitation of wisdom an infinite  
number of checks

of destruction by the arising of all its vital mo-  
tion "Sum vicia fallunt vicia in contrarie current"

A vulgar genius can only

namely slavery & consequently returns  
a society completely safe if its liberty is only secured  
but true wisdom teaches us to look both backwards



& forwards to the right hand & on the left and to -  
guard against anarchy & confusion more than against  
the lawless abuse of power. — — —

Lecture

150<sup>th</sup> April th<sup>y</sup> 1789.

The power of a husband a father a master  
or a magistrate comprehend all the source of the right to  
command. The grand prohibitory law of nature which forbids  
all injuries ought to be considered as binding on magistrates  
as the social compact if such a contract had existed before  
the establishment of society as government is entered for  
the benefit of society and for the single endowment of the  
magistrate. For though he is bound to act  
of his actions. To have

done no evil is indeed a gentle addition for a magistrate  
who has already done his duty but it is only the propriety  
of a log to do nothing at all for fear of doing hurt the  
fiction of the social compact appears to have been con-  
trived for the instruction of weak & ignorant minds who  
would the easier comprehend the guilt of taking away  
mens rights by having their injury presented to them  
as the breach of a contract that mankind ought to

abstain from using of any kind as from breach of faith  
as the obligation to abstain from breach of faith naturally  
comprehended in the more general obligation to abstain  
from harm of any kind a right to command or some-  
times acquired by forfeiture when a person who had done  
a wrong is obliged to repair it by his services. The right of  
a judge or magistrate to act in any particular case a-  
gainst the doers of wrong is acquired only by the forfei-  
ture of protection on the part of the criminal but this right  
ceases whenever the law is satisfied. In the state of nature  
every person has a right acquired

to make reparation or by

committing the injury his rights are forfeited with respect  
to himself & acquired to the injured party so far as

extends but no contract or forfeiture

can deprive a man of all his rights or render him the proper  
party of

for reparation & if the injury cannot be repaired otherwise the  
criminal may forfeit his liberty for life we have seen already  
that all the right which a man has to his own person is on-  
ly an usufructuary right or that of a tenant at will but it  
it does not include a power of alienation for the mind &



unalienable property which he alone has a right to dis-  
pose of no man therefore is born a slave because every man  
is born at all his natural rights none of no man has  
a right to dispose of himself a priori he can for less  
have a right to dispose of any others even the right of com-  
mand which Parents have over their children is only tempora-  
ry & intended for the benefit of the children themselves & not  
merely for that of the Parent The Roman Law therefore which  
allowed Parents to sell their children 3 several times was  
a triple transgression of the Law of nature & arose entirely  
from their mistaking the parental right of command for a right  
of property & so that the supposed property of  
the master & the slave & his property cannot even be legal-  
ized by the consent of the slave himself as he has no right  
to dispose of himself & because "nemo dat quod non habet"  
he cannot convey such a right to another person & the gre-  
tension on the part of  
against all right But thus we have treated sufficiently  
in Economics The public duties of probity

Magistrate & public spirit in all  
parties. The  
of the subject is the fidelity defer-  
ence & submission which he owes to the magistrature in

the degree &  
from the magistrate is the ready & effectual interposition of  
power to enforce the law & to secure the subject in the posses-  
sion of all his rights. The public spirit due from every mem-  
ber of any community to that community implies first a  
faithful discharge of any office with which a man is entrusted  
for the public good. 1<sup>st</sup> a continual enforcement of public safety  
to public honor & public good to separate interests & partial  
considerations. The first of these belongs properly to men  
in office whom all others  
ought to assist in the discharge of their office or as far as possi-  
ble because the most active & faithful magistrate if he has  
to do with a people accustomed to order & enemies to justice will  
find it difficult & indeed impossible to execute the laws or  
to protect the public without the active & constant support  
of all good citizens. The 2<sup>d</sup> belongs indifferently to every mem-  
ber of the society & is necessary not only for the assistance of the  
magistrate but for the preservation of the peace safety & well  
fare of the state. Every man either has or may have it in  
his power to benefit the state & his good will to it or con-  
science of its interest may be of signal service on many  
occasions if the magistrate is supposed to be the only per-  
son that has any interest in supporting the laws



has only a little share of public spirit they will not only occasionally assist the magistrate but at all times be ready to inform him of matters that demand his interposition. If a magistrate

He can be of very little service to the community to inform the magistrate of only of the injuries done to ourselves in a selfish & narrow spirit

public spirit. a very wrong way of thinking prevails for the most part on this subject which tends to the depolation of all government whatsoever. The character of a business of an informer is reckoned so odious merely because it is so in bad government that many men who think themselves disgraced by performing this kind of service to the public but certainly that service cannot be infamous which is absolutely necessary for the being of government for if crimes were not discovered they certainly could never be punished. The great error on this subject which generally prevails arises from a false notion of honor which is set up in direct opposition to justice as in the case of robbers gamblers & duellists to the state appears to

person that is an enemy to the state  
by not informing against him now because in respect to  
lawful matters & honorable party it is base & infamous  
to betray therefore men justly conclude that  
it is dishonorable in every case to inform the public of any  
thing that their neighbors want to keep secret but this  
opinion can have no foundation in truth

many seem to think them; but the laws must be respect-  
fully unjust & dishonorable if any man the sworn to the con-  
tract is supposed to be engaged in a tacit compact against  
them & it to be reckoned base & dishonorable when the latter  
the part of law & public order against

ourselves as very rational  
citizen will readily acknowledge it must be equally honor-  
able to give no support by every lawful means in our power  
nay in some cases these very people judge in this man-  
ner who are guilty of betraying the public in other instan-  
ces for fear of acting dishonorably to private persons  
no man for instance would rather it dishonorable to  
give  
may he would rather it criminal to neglect the duty  
of information with regard to such things as these but



information though the services of the very same na-  
tion with the others & the public equally transpends  
those who write against republican government generally  
for want of that

public spirit which that form of government requires in  
the whole of the community & which is so rare to be found  
among men & women. There have indeed been many over-  
sights among us which have rendered the arguments  
of those people very specious particularly our many  
unexecuted laws unfulfilled obligations & unpaid taxes  
as well as debts which are the greatest stain on our  
constitution that our enemies could contrive & expose  
us to the just distrust of foreigners as well as they give  
occasion to many of our own citizens to say that a  
corrupt people necessarily requires an arbitrary go-  
vernment not having principle or public spirit to cor-  
rect or governing themselves which is indeed every true

us that a free government cannot be supported which  
a very little time now will determine. Having considered

allows us proceed to consider the defense of men on the same manner because these two make up the whole of jurisprudence by the Law of defense a person may maintain his right

them by any means that are necessary for this purpose the Law of defense is a necessary consequent of the Law of self preservation or of it is the intention of nature that we should preserve our own lives & rights it follows by a parity of reason that we ought to counteract all fraud & to resist all force that is used to deprive us of them "Est enim hec non simple sed nata lex quoniam non accipimus deducimus legem sed

arripimus haufimus expressimus" The

state of nature from which we derive many arguments & illustrations in natural jurisprudence & civil policy is not a mere fiction of the law

continually exists under all forms of government & comprehends all that vast multitude of cases where civil authority cannot interfere & likewise all sovereign powers & states at all times whatsoever In case of sudden



as often as we cannot use the defence of  
force the state of nature returns & natural defences  
are the only ones that can be applied Even I doubtless the  
commonly little given to thinking are sensible that there  
are some cases on which we must use our natural  
rights of defence the aid of the Magistrate being tar-  
dy & at a distance but they widely mistake

of defence & public  
punishment & what can be ground & supported by wisdom  
indeed the laws concerning scandals & an  
misprison are in all nations because they uniformly  
ground on the supposition

between truth & falsehood The law of  
England has adopted the spirit of the Roman law on this  
head It is not long since Lord Mansfield declared from  
the Bench that the truth

& might even be conceived to an an

The Roman laws de libellis famosis were form-  
ed in the decline of the Empire with a view to protect the  
weak & to silence the virtuous

character so that these laws  
became a terrible engine of oppression as they restrained by  
heavy penalties the liberty of men in an instance in

inquiring their judgment of persons & Characters now  
all the laws of Europe are much more easily & assured  
upon this point than upon any other

The Romans Moraw though living  
under an arbitrary government ventured to rest on the  
law de famosi libellis.

" Si male quis  
" Judicaverit Esto sequi mala sed bona  
" Judice condiderit laudetur Caesare

11

As in the use of our defenses we are often in a state of na-  
ture nature must therefore be our guide as to the  
means

to redress wrongs that are already offered but also to  
counterwork & prevent those that are designed against  
us. It would be folly to wait till the wrong is actually  
done because

from ever making any defense at all but to  
consider how it is possible for us in consistency with our  
duty to prevent others from injuring us. It is the  
part of wisdom to moderate the principle of suspicion



defence with-  
out treating every one as an enemy. It belongs like-  
wise to wisdom to choose the necessary means of defence  
sooner rather than to lose the enjoyment of life by indul-  
ging a suspicious temper not by a foolish confidence  
to expose ourselves to the artifice of those who may  
have a design to injure us. There is a maxim we  
may be confident abominable with regard to friend-  
ship which

of life. "~~Confidetur~~  
"Arma tanquam  
"Et

It may certainly be considered as wise to moderate the  
confidence &  
suspicion young men for want of reflection & acquain-  
tance with the world are commonly prone to both these ex-  
tremes for they either place an unbounded confidence in those  
whom they think their friends or if they suspect the contra-  
ry  
enmity now both these are wrong because it often happens  
that those who profess friendship to us either mean no-  
thing at all by it or are not fit to be trusted & that

those whom we suspect to be our enemies  
on judgment

we may  
exist ourselves to compel it & often times have not  
the choice of the means that we are to employ for  
in the case of an attack all means of defence in our  
power which are necessary & essential may be used even  
the taking away the life of the assailant though a  
sense of humanity & duty will not suffer us to push  
this extremity when it can be possibly avoided

Those of others even  
when guilty of actual injury if we can avoid it at  
the same time we may defend our property to extremity  
though a small property ought not to be defended at  
the expense even of a guilty man's life. The good nature  
of the English nation has occasioned great audacity

men have  
passed with their property rather than destroy a criminal  
has tended greatly to multiply the number of  
robbers in that country of late matters are somewhat  
minded & people begin to defend themselves which may  
heads —



Persuasion artifice & force. If the person who de-  
signs to engage us is not so far left to reason as  
to be insensible of argument. Persuasion judiciously  
employed is that mean of design which an ingenious  
our mind would most applaud itself on reflection  
has used in the

use of which it is impossible to lay down precise rules  
only such artifice may be used as an consistent  
with the character of a person of virtue & honor.  
To see death & ruin in the arts of their craft-  
sman is nothing

if his life is not in danger  
but will rather stoop to have means to force when  
it can be employed with any probability of success  
There is something debasing in the use of artifice  
which a liberal mind will view with aversion &  
will therefore rather use force in the use  
of force than go any great lengths in that way when  
force comes to be employed though an even to extremi-  
ty & violence become necessary. The law of  
chastity however does not authorize the use of any

for this reason the use of language  
unnecessary harm without any sin to the party  
who use them but when they are once begun to  
be used on one side the lex talionis immediately ac-  
companies the use of them against that party who set  
the example in order to make them weary of the  
measure & to give them a taste

This purpose is an injury there may indeed be some  
exceptions to this general rule for when there is dan-  
ger of the injury being repeated or when we have a  
rational apprehension that the injurious person may  
do us still more harm

Precautions or may  
dissuade him from taking such a course with success. Thus  
a Member or an Officer may not only be expelled but  
degraded & branded & delivered over to justice for the  
punishment of their unsuccessful attempt even though  
they may be unnecessary for ourselves at the time we  
certainly owe to the public & to the rights of others



to escape on the law of defence. authorizes us not only to defend our own rights but those of others also when they are attacked. Those of the public ought least of all to be left out of the account as the public comprehend all our private concerns & all that is naturally dear to a wise & good man at the same time the injured party has no right to complain because by having recourse to force <sup>he has committed himself to a</sup> <sup>figure</sup> <sup>issue</sup> he must blame himself for all its consequences whatever they may be

LF

The Law of defence may be applied to persons in 3 different cases 1<sup>st</sup> that of single parties supposed to be

2<sup>dly</sup> that of fellow Citizens - 3<sup>dly</sup> that of Nations. Puffendorf is ordered to take notice in this place that under the head of persuasion which is mentioned as

men legal groups but not private parties & friendly negotiation with respect to sovereign states are necessarily included the case of single defence is commonly treated of under the state of nature & in the state every man is supposed to be quite unconnected with all other men. This kind of abstraction seems necessary to illustrate the ground on which they defend themselves because every man when attacked separately is in the same situation with respect - or if he were really unconnected with

all men or as if there were no other men in the world except him  
& his antagonist. Officially for help in a desert place this is  
an appeal to the feeling of society & a sort of protest that what  
action he might be obliged to employ is ~~mainly~~ against his will  
& that he would rather choose to refer his right to the danger of  
others now what may happen to a man in a wood or in a  
desert was likely to happen to him in a populous city in the  
midst of a great crowd of persons whom he only  
is equally unknown. In such a case the By-standers if they  
have any regard to justice will interpose to redress the injury offer-  
ed & to protect innocence otherwise a man must do for himself as  
well as he can. The English Mob have an odd conceit that a man  
should always defend himself without having recourse to others  
& therefore when they see two persons quarrelling who are unknown  
to ~~you~~ instead of enquiring into the grounds of

spit play & to prevent any  
from interposing in favor of any party & thus the suffer the affair  
left to ~~un~~ unless the defendant happens to have  
strength enough of his own to prevent him this proceeding is as  
small as it appears to be inasmuch as all observation believeth  
the innocent & the guilty is totally

confused as if the attack had happened in the  
midst of a company of wild beasts rather than of men a hu-  
~~mane~~-mane  
of action & will endeavour distinguish between the inno-  
cent & the guilty instead of making a part of the accident



their offense. In this case every man ought to consider him-  
self as a jurymen solemnly sworn to do justice to repell  
force & to condemn the guilty & a man ought to carry this  
idea habitually through the whole of his life for a jurymen  
is only sworn in order to make him recollect these ideas that  
he ought always to have & these obligations which he is  
under at all times. It may be said indeed to be absurd to  
call that the state of nature to which men are not na-  
turally disposed & in which they might certainly never be  
known yet there are many situations in which nations place  
us & in which we must feel as utterly unconnected with all  
men & can have no benefit whatever from the defense of  
society. If a person  
we may defend ourselves in the same manner but  
if he attacks us in the way of force

are those circumstances in  
posterior among Duellists the person who is challenged has  
the choice of the weapon; but in all other attacks the assail-  
ant

his own way as well as he can. The state of nature  
however is not only a supposition under which certain ap-  
plications of the law of nature may be abstractly considered  
but a true representation of the situation of men when they  
are so

The agency & evolution of society perhaps

It might have

to suppose any two or more parties unconnected with each other though not.

but in cases where natural defence is necessary the society to which each party belongs is at a distance & out of the question in the same manner as when Paris & Minalcaus were fighting in the field the whole of the Greek & Trojan armies were only spectators that is

but having no convention can have none of these rights & none of these obligations which arise from convention alone if any such party themselves should commit an injury against another the injured party would be entitled to his defence now in this case it is in vain to after the most all reference to justice is entirely excluded by the supposition that

& a person having said as are not likely to succeed they may employ force but still

It only in defence of their rights. The Law to which the Law of defence may be applied is that of fellow citizens who are connected by civil & political convention or which are founded a variety of conventional obligations & rights. These parties therefore being subject to the same laws have an opportunity of deciding their differences by the Courts which have jurisdiction over both

justice & the difference between a good & a bad form of government or between a



1.  
almost wholly in their judgment or whims for securing the  
rights of men & deciding their differences according to the  
rules of natural justice Disputes at law are

arising from the imper-  
fection of men & their disposition to encroach upon the rights  
of each other a just & honorable course of Law is one of the  
chief perfections & advantages of a good government the  
most governments indeed are far enough from perfection  
on this subject

want of Integrity & capacity in the judges  
& jurists & partly to the incapacity of the Legislature & the  
people in general who are incapable to comprehend what  
is the use of a good government Hence disputes at law are

continues  
for wearing out the patience or exhausting the property of  
litigant parties a certain judge in France <sup>the</sup> whose reputation  
from was

once asked by a young magistrate how he proceeded on his  
business to or to give each general satisfaction The Judge  
replied

deep attention & when he was gone home to his clo-  
set he threw a pair of dice first for the  
c that always de-  
cided in favor of the party who had the best of

applied to another famous judge for the same purpose  
my method says the caller on this I must mind what the Court  
here say on either side but I take home all the papers with  
me and sit down to peruse them with attention.

each party  
against those of the other & I uniformly give sentence a-  
gainst that party that produces the greatest weight of papers  
but such methods as those of deciding controversies may be  
said to be more impartial than judicature. The artificial  
& interested manner in which causes may be made before judges  
requires the most exact attention on their part to separate  
truth from falsehood & to discover justice under all the disguise  
for that may be thrown upon it by exorbitant

side. Fellow citizens have  
already stipulated to refer their differences to the judgment  
of courts & to employ

of the magistrate. To suppose a cause to be the  
decision of the courts argues a confidence which the party has  
of obtaining a just one or at least an expectation that he is  
able to persuade the Court that it is so & that it may argue  
a religious temper to be frequently at law

may sometimes find himself  
in a situation in which he is obliged to act in this manner



In times of Antiquity & simplicity of manners the method of  
arbitration was generally chosen & thus used

even they to find & suppress. Then Virgil represents the Latins  
& Samolus as agreeing to refer their differences in this manner  
to Palamon. "Audiat

Palamon.

follow students are obliged to  
submit their differences to the senate of the state & admit of the two  
following exceptions first where the judgment of Coroth cannot  
be had nor the power of the magistrate interposed to prevent the  
injury. 2<sup>dly</sup> when the relief by civil law cannot be adequate to  
the injury apprehend

could be questioned for a moment by any  
one who is in the least acquainted with the affairs of men. We  
did the far

just a kind that our natural and rights rest merely  
on natural circumstances as the

fulfilled by ordines & by  
far the greatest number of injuries & even those of the most he-  
non nature would have remained unpunished if immorality had nothing  
to dread except the absence of laws but the fear of the imme-  
diate execution of natural justice & of the effects of private retri-  
ment is a much stronger restraint of the criminal than

formalities of the  
law. It is a common delusion to imagine that the terror of the

clear alone

respectably necessary for that purpose & no society can exist  
without it but the thoughts of the are commonly weak  
unsustained & are confided by vulgar minds at a great  
distance so that they are almost as much disregarded

criminals  
who may be capable of reflection It is to be hoped that even  
the leniency of the law may become more operative when they  
are daily exposed to the eyes of the multitude

a muting with  
just immediate punishment from private revenge as they  
can neither forgive nor escape The rightly grasping E.G.  
is not so much afraid of being taken or imprisoned as of being  
resisted & the persons who make a house

of that execution as left the  
they should be given immediate attention

injury who  
have the most natural  
have as good a right as any other to the protection of the  
law

magistrates The natural disposition of men therefore  
are always their chief witnesses in civil society & they grow  
spiritual in proportion to men in places than the distant &  
uncertain views of the law of which there are so many  
chances of escape of the 12. Class, whereas there are  
would



done or apprehended <sup>in proportion to the injury</sup> The far greatest part of the troubles are  
incapable of legal proof & the greatest  
escape the person of  
now in all these cases this law can either afford no protection

the innocent & in a null of instances the most  
guilty may elude its power but the private immediate  
& natural defense of man & the effect of their feelings are  
what criminals have much more to dread than a trial  
sentence & execution It is true that it is, be contrary  
to strict law for men

our injury but it is not to be expec-  
ted that men will resist the laws at a time when they  
can be of use to them in the defense of their right

recent provocation  
It is happy likewise that criminals have always the  
most dread of the natural defense of men for if they had  
nothing but the law to dread we have seen that in many

good morals are  
a much greater defense to a state than even the very best  
laws supposing them always to be faithfully executed  
Ignorant

the laws because they foolishly imagine if  
they are able by themselves to enforce the peace of society

men attentively into things will easily be convinced that  
even good laws have no necessary effect cannot  
them

from injuries but that courage & union & the natural  
defence of men to gether with good moral. contribute in  
probably more to that purpose than even the best legal  
system & the most upright administration it is to be feared  
that the immoderate & blind admiration

regard which they  
pay to liberty may excite this

resque of some dreadful internal  
commotion of religion

have been hitherto mutual esteem  
& confidence & a regard to the rights of others are the great  
bond of human society & without these we see that our  
Moral laws prove only a brand of

Country Public spirit is the re-  
sult of influence of a good heart & regular morals  
but if men are doing nothing.

It is natural to suppose that in a  
short time they will be persuaded that this cannot  
be done except at the expense of others so that the love  
of liberty by a most natural transition degenerates  
into tyranny & robbing on the study of the civil laws.



of self preservation & infidelity of the  
rights of others

has a mighty tendency to make us forget that  
any thing is due to others or will also make us lose mutual  
respect & respect uneasy under the influence of law & equity. Judge  
is not bound to decide according to law & justice. It is a con-  
siderable check indeed on the Judges of England & this  
Country

Cromwell the Verdict of a Jury of 12 men is necessary to sup-  
port their sentence. But this is only a defence of the ambi-  
guous hand & the good or harm to be expected from it depends en-  
tirely on the morals of the people for when men can come gene-  
rally to defend good & to leave no shame of

Bulwark to our liberties

here & properly may be the engine to destroy & annihilate  
both all the reliance that the constitution has upon the  
intervention of Jurymen & entirely founded on the presumption  
of their being good men. "Probi et legales homines" But if  
they should cease to be so & come to glory in doing  
what they pleased this is of the Law & become  
to every Jurymen to justice even though all the judges

be used on account of the want of Capacity in Jurymen  
even when their integrity is supposed to be unapproach-  
able. Put in a complex argument & rights  
judges & men

who have made the Law their study are not to be flatter-  
ing doubted every day by men who can spare to sup-  
pose to be capable of understanding  $\frac{1}{2}$  the part

Evidence whereby  
guilt circumvented and distinguished them often over such  
intricacies as an aptle puzzle the most acute men  
How the decision of Cases of this kind

die or weighing  
the papers in the scales which we mentioned a little  
before —

## Lecture 1

arbitration or umpire  
has been of great use for the decision of controversies in some countries  
may be in all but when

this method will not be much  
beneficial where almost the whole property of the people  
max. litigation must be frequent & consequently often ruinous not only  
by expense but the enmity & alienation of affections

there of society. This no less suspending  
that 2 of the most obnoxious monarchs of the  
modern age as in the late King of Prussia

It is true that these absolute power enabled them to do this with  
more ease

duration of suits into



has grounds many advantages to the inhabitants of these countries to  
which free natives, an enter stranger. The price of land in England  
is immensely high ~~and even~~ in the country where liberty has been

beyond description. By adopting the Law of Eng - in cumulate  
adding duty to them by our legislators the rights & property of men  
must become daily more & more perplexed much indeed is expected  
from the wisdom & ability of the succeeding generation & much

of the subjects & acting independence of the State & of its subjects are  
entitled to enjoy a more free & permanent or at least they  
are denied by the Law of nations convention. It is melancholy  
to reflect that after all that has been said & done for liberty  
& a free constitution the whole seems to be expected from it are  
entirely suspended on the virtue & understanding of the people  
administer them a free constitution. Charles or Henry & James  
capable of producing great happiness to society. But what that  
constitution & government is managed by ignorant & envious or  
indolent men who either want ability or are restrained from  
acting by cowardice a free constitution in that case yields no  
advantage at all to society & contributes as little to its protec-  
tion as a ~~Deba~~ golden Image which all men were  
compelled to worship

have only as much life & energy as the magistrates  
put into them: it is utterly impossible that they should have

any more unless

sitting further & praying that they  
 may be preserved the law of nature where there is no consent  
 to the contrary limits the power of the magistrate to what is ne-  
 cessary to defend the innocent fall restraint & prevent employment  
 beyond these limits an unlawful magistracy being instituted for  
 the safety & welfare of society & the protection of the rights  
 of man Every act of a mag that would be necessary for  
 these ends must be of the nature of an injury & a transgression  
 of his commission In relation to the authority  
 of the magistrate may be easily converted to serve the purpose  
 of oppression & wrong because a powerful prosecutor  
 at court will enable any man to set almost all the laws at de-  
 fiance the absence of a free conscience is that it allows  
 no discretionary power to the magistrate except that fatal one  
 of doing or not acting but he is authorized to act  
 arbitrarily then a disorder by the laws the laws of conven-  
 tion an various in different states On some it is permitted  
 to act in prison without severe & tor-  
 at the discretion of the magistrate but where either  
 the lives liberties or property of men are left at the discre-  
 tion of the magistrate that constitution cannot be a  
 one  
 obtained confers a man for life from daylight liberty friends  
 society & correspondence as they are deprived of the use of pen  
 ink & paper & the messenger grants this against any  
 person whatever & executes them without any trial or exami-



nation so that the <sup>person</sup> can have the  
opportunity of complaining of a small property in a free  
country is infinitely more to be valued than the most splendid  
for when it may be left on a man by a false re-  
laxation of a minister of state when mankind  
have once given up their liberties though their natural rights  
still remain they generally lose all courage & are easily hum-  
bled & placed on low as they desert their mind to corrupt  
truth by custom is an absurd error is used when the  
will of the Prince is the law & the magistrates have defertion  
al powers mankind sink into despair & are begun to ar-  
gue in favor of that slavery which strips their nature while it  
degrades them of every comfort & security such powers as these the  
originally usurpations become sacred by custom & lapse of time  
& are well defended by those wretches that are exposed to their view  
moment but while the French can entertain their imaginations  
with the glory

laws may be accused & brought to justice but when they are author-  
ity sanctifies absurdity & defends equally all the crimes that man-  
kind have for happiness is to be in equality of security & in signi-  
ficance as there is no safety except in this or in the good na-  
ture of their Tyrants The History of arbitrary governments  
is enough to make any one on love with liberty we wish that  
we could say the same thing of the history of free nations

"Eduo libe uro

"Hunc fidei sub iure uictis uili

The Right of subjects are in danger when the magistrate

his proceedings are irregular & ar-

The people

of power

has often been at

to be hurtful to the morals of men by inf this vanity &  
they please as

well as to despise other men as an inferior power now to pre-  
uent this the states have always endeavored to abridge & de-  
termine the term of the continuance of magistrates in office  
that they might not then be too highly of their privileges nor  
be so ready to abuse their authority

For the duration of power in the  
same person most societies indeed have gone into extremes  
in this matter The Romans made their consuls annual  
condemned to guard against tyranny by having always  
two persons at once in the supreme executive authority who  
divided their power in they let they thought that

in power by  
limiting it to the space of a year after which they fell into the ranks  
of private citizens & were obliged to give an account of their adminis-  
tration of their integrity were called in question but in order to  
fill these annual

contained commonly the richest wisest & most  
accomplished men in the republic whose education & views led them  
to regard themselves for these high offices by the lower ones of  
Edile & auctor what commonly led to them or by being proconsul



the army & as the republic was almost ruined & as they had always an opportunity of signalizing their zeal & courage in the cause of their country when they returned home they found also at the bar for which likewise they had been trained

any other reward than their voting for or against when they stood candidates for any of the dignities of the republic but when they defended any celebrated citizen such as a consul or a proctor accused of maladministration it may indeed be supposed that they received considerable rewards as Cicero tells us that in the latter & more corrupt times of the republic

he collected the first year for himself the next for his lawyers & the 3<sup>d</sup> for his judges but when such a multitude of men

to find that that office was often properly filled it was known indeed before the Plebeians were made capable of the consulship even for a considerable time after that privilege was

their power still elected only Patricians into that office & when Plebeians were admitted it was the lustre of their character & the fame of their virtues that grounded their votes & sometimes they would prevail against the largesse & gifts of an opulent Caesar was first who grounded the time of command to be prolonged beyond the terms prescribed by the laws & from that time the honor & influence of the

down to the fall of the Empire It is to be observed that it  
was by flattery the people taking the Tribune & giving them  
selves

Cæsar over turned the liberties of his Country His followers  
were the whigs of those times who carried liberty to an ex  
cess & placed all power in the people Pompey Brutus & Cato

or of the Senate

& confining the duration of their power would be a wise & good  
one but the misfortune is that men however much they are in  
clined to boast of themselves are very unequally qualified for  
offices of any kind & the most of those who try their noise  
are most agreeable to the people & generally unfit for any office  
whatsoever though all are in their power. Those therefore that

in order to avoid an abuse of power  
by a too long continuance in office run an evident risk of  
sometimes in office who are fit for nothing & know  
nothing of the duties belonging to it The constitution of  
this state  
imitation though the people are willing to choose him  
the service of a rep-



By this means we are always sure to have changes and but such  
depend entirely upon  
accident a notion indeed

proper in order to have always a sufficient  
stock of good & well qualified statesmen on hand as if they were  
intended for exportation or as if a whole army of them were  
suddenly to be employed at once. It is definable no doubt that a  
number of men should always

be to discharge the great  
offices of the state with propriety but the method which the constitution  
has proposed for their education is rather extraordinary & the grievance  
of it is exceeding great. They are to learn their profession at the  
ex

at the expense of those whom it might  
concern by making exponents & by engaging them for their  
own improvement in their business that at the end of their  
3 years apprenticeship they may be qualified

of equal experience  
statesmen but what becomes of the state in the mean time  
which has been fluxed & voided  
the efforts of these ignorant imbeciles for 3 years exhausted by

found up of strength  
only one way is proposed & that is by being again deliver-  
ed up for an equal span of time to a number of apprentices  
as ignorant as the former & equally ignorant to improve

thus shall at the expense of the public & on which the state  
last none of men were to act in an ridiculous manner w<sup>th</sup>  
regard to any of the common concerns of life they were

conducts  
appear & remove its grievances to preserve the rights of  
men & to strengthen  
law for the public good was much a prospect as the  
science of law of life or mechanics or manufactures of  
any kind & to suppose that every man is equally qua-  
lified for it is supposing what is not the fact

even among those  
who have studied for a great part of their lives to qualify  
themselves for these professions what could be expected from  
& this only by practising & making experiments accord-  
ing to their fancy nothing surely could follow from a method  
of this kind except an equality of ignorance vanity &  
incapacity & an equality of misery in all those who had  
any thing to do with them

their country  
by good education vertuous living the love & practice of  
justice & diligent private study of the laws & history of  
arbitrary & tyrannical & not merely by becoming Bank-  
rupts  
promising impossibilities a new country has certainly  
great need of being well provided with good physicians  
Lawyers mechanics



of a law ordering that no one should employ any  
lawyer physician mechanic or husband man for more  
than 3 years at the longest

Those for their lawyer physicians  
& mechanics who had no previous knowledge of these  
arts to serve an apprenticeship by practising for 3 years  
in order to their own improvement

Lawyer's physician  
and mechanics & husbandmen exactly equally to  
each other in the knowledge of their respective professions

but the fundamental error in  
this business is that of turning our whole attention to forms  
interests & circumstances & having no regard whatever to  
the characters of men

equal life of the characters of all  
men be supposed to be equal either in knowledge ignorance  
virtue & even then all the insinuations & theories that are  
founded on this notion must necessarily be erroneous  
& therefore men naturally differ very much from  
each other both

to this difference must be false & un-  
faisable to human nature now insinuations upon  
government men are very apt to run into one or  
other of these extremes they either suppose that virtue

may be elided to govern or serve his country  
without any other qualification than that of being el-  
lected or else to set up a monarch vested with infallible  
authority & his commission is supposed to qualify the  
person that obtain it for every office in government & to  
give him liberty to do what he pleases supposing that  
reason now when the business of government is at  
this national just a mystery that they people must  
not enquire how

obvious that every man knows  
as much of it as another it is equally mistaken in  
both cases. It is a loss to writers on government that  
many of them seem to have been very little acquainted  
with human nature & allowed no v.

forming schemes & constitutions of government  
but supposed that there were no principles in  
human nature except avarice & ambition & then  
for this whole thoughts are employed

or an dividing  
power into such portions that every one may have  
a share for a little of it some time or other but  
they leave no room in their schemes for virtuous



attachment & delight & suc-  
cess to elect men representative merely because they are  
averse to raise any of the public revenue or because they  
promise to oppose even the levying of what is imposed  
already in a light degree of insanity & shew

Sanco Panco Physician

did to that governor &

integrity The man who ought to be  
chosen to represent or serve his country is one who is both  
able to discern what is good for him & to pursue it with-  
out being turned aside by personal & party interest—  
a trader or certificatee will consent only to such laws  
by which he & his friends might come into the possession  
of as many of them as may be & may have 40 per cent  
for their money at the expense of the state but a citizen  
who truly is faithful to the public

state to do justice to its  
real benefactors & to reject & disappoint the claims  
of speculators & imaginary creditors

## Lecture 161

Often a legislator or a magistrary act from  
personal interest their conduct must be irregular & inconsistent as  
well as often unjust & they might raise or depress the character of

W<sup>h</sup>

just as if it for their private profit  
States with respect to their rights  
• defenses which is much the same with that of private persons &  
other corporations States have their right as well as men but being in a  
State of nature with respect to each other that is having no common judge  
or superior on Earth their rights must be defended by force when attacked  
in the same manner as if they were private men

a defense. Force must likewise  
be their law as in the nature of things the state that is possessed  
of superior force will maintain whatever it judges to be its right. Now  
we good reason the others may have on their side yet they are  
under the necessity of submitting to the will of the strongest  
Honor a brightness & a disinterested spirit an extremely need  
ary for the governors of nations because if they are not a  
law to themselves there is no power on Earth to restrain you  
Magnanimity & courage are the attendants of justice & arise  
from the same principle namely a just sense of the true ex-  
cellence of human nature. Now it is highly honorable to  
those in eminent stations that though invested with a  
power that might enable them to

they choose to employ it on support of jus-  
tice & the rights of mankind & disdain though they  
have every thing in their power to arrogate any thing to  
themselves except what justly belongs to them private.



only because they have  
it not in their power to do unjust but when sovereign  
States or Princes do justice it must from a sense of the au-  
thority & obligation or an admiration of its excellence because  
their power has nothing

confess we should  
philosophers. That they only  
appear the appearance of justice in order to obtain the ap-  
plause & confidence of men as dignity & elevation of mind  
is necessary in those invested with power it is evident  
that Usurers Bankrupts Sharpers & men of mean souls  
are utterly incapable of supporting

or acting with any respectable degree of justice decency  
or propriety Such men being entirely under the power of present  
interest are neither capable of thinking properly for themselves nor  
for the state hence they must be hard masters rapacious  
rulers & exuding

bad dollars & heavy masters because when an opportunity of a  
good bargain occurs they

"Vendit hic auro patrum." In trans-  
action between nations the act of the sovereign or of those employ-  
ed by the sovereign is considered as the act of the nation  
The intention of every society cooperation or association is to  
make one of many or that many may be governed

by one will which is understood to be the will of the  
majority or of those at least to whose authority the society  
has promised to submit Indeed the act of any individual per-  
son is not the act of the state except so far as in his  
action he is evinced & acknowledged by the state this pro-  
tection may be either negative or positive The injury for  
instance done by a particular man may be either open-  
ly avowed by the governors of the state whereby it becomes  
their act or they may artfully disguise their

or by superficial in-  
creases & extenuations they may cover the offender when  
they have no mind to seize him now in case of this  
kind of the ancient Greek republics discovered a  
method which they called *anapodexia* or refusal

& internment to that state that they would ge-  
nerate the man that they had taken as the author  
of the injury that they had received unless the state  
to whom he belonged would produce a deliverer up to  
them the real author of the injury this method by  
intimidating every person in the offending state to  
discover the real offender was of great use to pro-  
duce justice between contending parties & for pre-



an injury members  
as to the intention of society is make one of many this  
produces a community of interests among the whole mem-  
bers of the society as well as between the state & each in-  
dividual an attack made on any of the members  
interests the whole state in the same manner as an in-  
jury received in any part of a mass body awakes all  
his feeling & interests to the whole man a nation

that is injured may make reprisals on the persons or effects  
of any of the subjects of the offending nation & society if  
injured by one or more individuals of another nation  
cannot select these from among themselves though if they  
have particular knowledge of them they may probably  
demand them of the society to whom they belong on their  
refusal to deliver them they may proceed against the  
whole society as Lexi criminis having taken the  
guilt of the offenders on themselves by refusing to deliver  
them up It may indeed sometimes happen that it may  
not be in the power of the offending state to discover or  
deliver up the real offenders but they are bound

because if this were not the case any one state by pro-  
tecting a few injurious persons might disturb a peaceable  
neighbour as much as they pleased with impunity by  
constantly pretending that they could not discover the  
real authors of the injury. The law of nations therefore  
requires that reparation should be made by the pub-  
lic when the private

justifiable in attacking & seizing  
any of the subjects of the other nation that come in their  
way in order to oblige their prince or society to do  
justice either by investigating & delivering up the guilty  
persons or if they cannot be found by making repara-  
tion in their stead & nations who maintain contradictory  
rights by arbitrage as by force are said to be in  
a state of war

on occasion of the injury complained of the offending  
nation charges to deny the fact if they do not actually  
make the just complaint as has often been the case

in maintaining their own innocence however the fact may  
stand or that the avow the fact complained of to  
be well & justly done the Romans had



Specials whose business it was to make regular & for  
usual compliments to the offending nation of the damage  
that the Monum people had suffered from their subjects  
to declare war against them in case of their refusal  
to make reparation this was what was done with  
great solemnity the Adept used to carry with him  
reparations

peace & concord when he had not obtained  
justice as he demanded he threw a spear by way of defiance  
within the territories of the enemies after which they were  
considered as in a state of war as was offensive from  
fraud than from real difference & interference of Interest

Seldom successful & the Adept

any reparation but to maintain the injury  
by was then in hand that Oream

maintained the injury done by Paris in carrying off  
Helen without ever intending either to deny or excuse it  
Mordochius goes on to say that there had been several rapes  
committed by Europeans in Asia which were commonly  
revenged by the like injuries on the part of the Asiatics  
but Homer mentions nothing of this kind when war

is one began the cause & continues it  
entirely forgotten

War is just only upon the supposition of injuries apprehended  
offered or perpetrated. The wisdom & magnanimity of  
governors is much put to a greater  
injury than to them in the

beginning of war is only the opening of a new toilet.  
an infinite number of evils & the evil after all must  
be very uncertain. The governor of a state ought to be well  
advised before they inter into it. Suspecting or accidental  
injuries apprehensions of imaginary evils & least of all  
the desire of conquest ought to influence them on this  
occasion

been begun for very slight matters & some  
times for nothing at all that we can discover for that  
from whence

It arose if all nations would take the same lean to com-  
plain of the injuries that they receive as the Romans did at first  
many wars might have been prevented & reparations easily  
obtained. national prejudices are sometimes the only cause of  
wars & at all times have a tendency to exaggerate the  
harshes against each other

turns as they are unworthy of  
rational men have a natural tendency to diminish



war may be so near as not to allow time for negotiation but when that is not the case negotiation and ~~some~~ remonstrances ought certainly to precede hostilities. It often happens that neither the one party nor the other has

benovolent or even able to diffuse the method enjoined in the gospel namely to consider their strength & to count the cost before they go to war then wars would have been few or no wars in the world a nation has provided

in order to

then the thanks of mankind

a absurd opinion the numbers of mankind can never be a nuisance in any country if they are properly employed & well governed crimes arise solely from the characters of men

a situation The world has been always too large for its inhabitants instead of being too small Mr. Voltaire reckons that the world could afford to every individual 50 acres of land & 40 crowns in money but whatever be in this it is undeniably that the world has always been abundantly large for all its inhabitants

The immediate object

What is war puts on,

not totally disgraceful human nature  
great cruelty & torture & inhumane treatment of pri-  
soners as well as making themselves though long &  
generally gratified

War is properly between inde-  
pendant nations but has actually taken place between  
fellow citizens & civil wars are gener-

More than these that take place between dif-  
ferent nations the passions of parties being more irritated  
in consideration of their former union

& must always be  
highly unbecoming on one side the violence of party spirit  
& a false notion of the rights of men have commonly  
been the cause of civil wars War though often resorted  
to as an expedient

to amend a bad constitution or form of govern-  
ment & has a tendency to render the circumstances of  
men always worse instead of better if men are unsatis-  
fied with the constitution or form of government un-  
der which they live they may reason against it  
point out its defects & they may even use their in-  
fluence & move their friends to procure an alteration



1  
them to do & if they cannot prevail by these  
means nor submit to any established form they  
ought to remove to another state but there is a  
- rather extreme with regard to government which  
grows often an occasion of mutating party spirit  
& that is when men imagine that by leaving un-  
der any form of government we are bound not  
only to submit to it but to aid  
now this is quite voluntarism because  
no man can be bound by any constitution to approve

bound a slavery of the soul & a slavery  
to very mean men & what is worst under the guise  
of liberty Civil wars are often as unreasonable &  
their causes are hard to discover as those between differ-  
ent nations the safety of these lately united states  
having arms intrusted to them have great need  
to be well informed of the duties of good citizens

Demagogues might endeavor to per-  
suade them to take arms in order to alter or  
amend the constitution or form of government  
under which they lived or to obtain relief from

parties or free government to but if  
the leaders of each side were persons of undoubted  
merit & justice I had only need to  
The great even party spirit might at times do little  
harm the disputes that exist between different parties may  
be very innocent & harmless if they are not too violent  
The talents of men are excited & called forth to action by  
public disputes which while argument alone is made use  
of serve no bad purpose but when men lose sight of

the good manners be each other they are in danger of ex-  
tinguishing the moral to violence newspaper controversy  
just tho' they may be sometimes favorable.

ill-temper'd people have a  
denot tendency to excite civil wars perhaps the max-  
im of Esamirondas that a man ought  
never to wage — war on any account against his  
own country.

Lect. 162 April the 9<sup>th</sup> 1709

The law of war is in general the same with the  
rules of private defence. The object of both being common just fresh  
hostilities only are lawful as are necessary to obtain the victory  
destroying the monuments of art & turning a country into a



desert an honourable & dishonourable mode of making war.  
Indiscriminate slaughter & massacre are still more  
disgraceful when under the 14<sup>th</sup> or under the Pallatinat  
to be burned & excited the indignation of all the powers  
of Europe the best & most honourable policy or making  
war is preserving the property of private persons & attacking  
only that which belongs to the public the making war  
without legal proof when reparation of damages alone  
is sought for but few or any foreign powers have hitherto  
to confine themselves to these methods of making war  
justice & humanity prohibits the most part of them or  
the contrary endeavour to destroy all that they can

without the least respect  
to themselves Suffer an ordinarily very fatal to the natural  
rights of mankind as the mind of the Besiegers are commonly  
incited by ruffians so that the greatest violence & cruelties  
are generally committed at the sack of  
"quid faceret hostes captas crudeliter"

In the beginning of wars more moderation may be expected  
than after they have continued for some time as the minds  
of parties become incited by continuance & many private  
resentments are added to the supposed injury of the public  
if foreign powers were generally disposed to peace the  
innocent traders might be exempted from the violence  
of hostile navies as well as fishing vessels which are  
now generally seized the law of the Spaniards prohibited



even the unnecessary destruction of towns in an enemies  
country & the destruction of private lives even in the case of  
a siege the 2<sup>d</sup> Law of arms that whenever it is safe to  
grant an enemy quarters it is unlawful & dishonourable to  
refuse it as history in the progress of war it ought  
to be considered as quite irrational to refuse the permission  
of an enemy when he yields himself or to expose his person  
to the preservation of the lives of men. The ancient Romans  
imagined that this was quite arbitrary & that men  
might either kill or spare their enemies as they chose  
hence ~~Rome~~ <sup>Rome</sup> reports her Heroes as bawling in cold  
blood those who had submitted to them in the field & only  
moved to pity now & then by the promise of great ran-  
soms the loosening of the <sup>not good</sup> wholes & wil consequences of  
war makes always the most amiable part in the charac-  
ters of those who are engaged in it & ought therefore to be con-  
sidered by them as their duty if one party refuses quar-  
ters the other must do the like till the offending party  
renounce that barbarous custom the Romans refused to  
redeem those prisoners that submitted in the field with a  
view to engage them to fight stoutly having no  
hope left except in valour this war even carried so  
far that they imagined that a man could never af-  
terwards fight with courage who had once submitted



to be a prisoner

"Mor

"*Defunctus indolentibus*

"

"*Poenam veniens* or even

"*Si non per*

"*Captiva quibus.*

But succeeding ages have shown the futility of this  
notion & even the Romans themselves were at last obli-  
ged to give it up, as on civil society it is not always  
expedient to carry punishment to the utmost rigor even  
of natural law soon wear the man restraints that are  
put upon its fury & is the better for mankind in general  
Magnanimity & wisdom in the chief commanders of armies  
& bravery & humanity which always go together in the other  
officers & soldiers are the best security for honorable beha-  
viour. To refuse quarter when it is demanded is almost  
never necessary as it has often been found that an ar-  
my has taken prisoners another army more numerous  
than their own. The difference between armed & unarmed  
men renders this gratuable together with the sense of  
honor & the obligation of Paroles. In the case of small  
battles called to actions while outnumbered with great  
numbers of prisoners. The cruel expedient of killing  
these prisoners to prevent the increase of the number of

their enemies has sometimes been gratified. The 3<sup>d</sup> Law  
of war is that breach of faith is exploded in the prac-  
tice of nations at war & counts for nothing to man-  
kind although the ordinary benefits of mutual so-  
ciety are removed by the parties who are at war  
yet there is a certain interest with respect to priso-  
ners which must necessarily be kept up & this ought  
to be maintained by the same laws as civil society  
now for this purpose truth & faithfulness must not  
grow for a contract is as necessary as in the other. Those  
who surrender at discretion have no resource except  
in the honor & humanity of the conqueror but those  
who surrender on capitulation have a right to be  
tried according to the terms of that capitulation  
by which every man of honor will consider himself  
to be most strongly bound a competition of perfidy  
would be ruinous to mankind because it would  
soon change all wars into exterminating wars  
therefore on the mutual commerce of

a Cartail for the  
exchange of prisoners parties at war ought to reckon  
themselves as much obliged to honestly & veraciously & good faith  
as fellow citizens in their civil transactions & this more  
so that there are no courts competent to decide be-



1  
The excellence of honor magnanimity which bind  
men more without constraint & with their own con-  
sent & yet more strongly than the greatest outward  
constraint "Honor is a sacred tie the Law of Things  
" The noble Minds distinguishing perfusion

1  
The character of men but when not accompanied with these  
it degrades them to the rank of men engines of destruction & a  
Soldier who is capable of violating his word is a most hateful  
as well as dangerous character because being in possession  
of force no laws can bind him. Hence a just sense of honor  
has always been considered as essential to this profession because  
a man has more of true honor who is under no other restraint  
on this account likewise Soldiers are sworn on entering when  
the service & destruction is so severely punished because implying  
perjury before a cowardice when the whole set of the citizens  
indifferently are armed it does not appear to be so easy  
to maintain a sense of honor among them but that dis-  
cipline seems to be the only means of preserving at least  
an appearance of it the 4<sup>th</sup> Law of war is that any  
party may assert the injured that whoever assists the in-  
jurers may be treated as an enemy and war is the  
natural defense of states when attacked or threatened it

may be used by any state for the defense of another  
whom it considers as injured or well as for its own  
honour alliances among diff<sup>t</sup> states to defend their respec-  
tative rights & these alliances may be made even for  
perpetuity as in the case of the Swiss Cantons, the Repu-  
blicas of Holland & perhaps the United States of America  
if once they were united. It is lawful & honorable to de-  
fend others as well as ourselves when unjustly attacked  
& when it is in our power & it is criminal to neglect it  
The honor of Knighthood consisted in being always  
ready to maintain justice & punish crimes to rescue  
the weak when oppressed & humble the powerful  
who had abused their power to the prejudice of jus-  
tice & finally there could not be juster notions of honor  
Sovereign Powers are then most honorable when they  
adopt the maxims of Knighthood Thus England  
Spain & France  
adopted the cause of these States against England.

If mankind the Romans indeed extend out of policy  
into all the quarrels of their allies but they never rested  
till both their allies & their enemies were entirely sub-  
dued by the power of Rome so that they boasted that they  
had conquered the world they suppressing their allies which



is constantly the worst the misanthropic policy of the Romans  
by alleging them self always to the weaker Party wherever  
they had cause was the more abominable for representing  
the gratitude of a just & generous people Oliver Cromwell  
indeed proposed

a union of conquest by promoting  
a general alliance of all the Protestant Powers and  
his great designs were cut short by his death. Princes  
nations will have their allies as well as others & when  
they are powerful will meet with allies sooner than others  
the base policy of the Swiss Cantons in hiring out their  
youth indiscriminately to any power or any cause  
is highly absurd & unjust hence Mr. Monfaucon justly  
calls Switzerland the Guinea or slave coast of Europe  
from this abominable practice by which they often assist two  
opposite parties at the same time & massacres of Jews  
are often drawn up opposite to each other Some lawyers  
with as little scruple as the Swiss & probably for the same  
reason will pass from one side to another of the same  
cause during its dependence without considering where  
the right lies But the allies of an enemy must neces-  
sarily be enemies ——— The 5<sup>th</sup> law of war is  
may be seized if this can be done without detriment

It seems undenably just by the laws of nature to seize the goods  
of an enemy when taken but the difficulty lies in ascertaining  
the property of them which has been variously explained  
at different times by compact between diff. nations some-  
times it has been held that if the vessels belong to  
to seize them or even to search for them as neutral vessels  
were considered as neutral goods but as  
great advantages thereby accrued to private states & ear-  
ly could carry on their respective trade in neutral bottoms  
Parties at war in Europe have for some time past claimed  
the privilege of searching & even seizing neutral ships in  
time of war on pretence that the goods which they had on  
board belonged to their enemies in the manner the dutch  
Trade in the wars between France & England

at once  
a dutch fleet lunged on one side & the other by the other  
Something seems to be wanting  
in males in order to make an established rule on this  
Subject

doubtless a Provision on one side & the plunder of  
neutral powers on the other the clause of war that  
the effect of a friend going to an enemy if they are such  
as would enable him better to carry on the war may be



perceived that the effects of a Friendly Nation cannot be  
duly paid for to prevent  
them from embracing the reforms of the Enemy but the  
misfortune of this Law is that it comprehends almost every  
article that is necessary for human life which may in  
this manner be considered as tending to strengthen the  
Enemy not only warlike implements & ammunition  
but provisions & cloathing as well as medicine become  
necessary in this manner which considerably augments  
the calamities of war to the proprietors of neutral  
articles as they always receive a much less price for  
goods than they could have done if they had retained their destined Port & form a state  
ment to the rigor of this law were agreed to by com-  
munities between different nations the horrors of war  
would be somewhat lessened & the condition of neu-  
tral Powers much bettered but then seems to be a  
want of precision in this law as well as in the last  
The 7<sup>th</sup> Law of War is that Captives may be obtained  
& securely

Prisoners of war ought to be sup-  
ported at the expense of the states to which they  
belong & a certain ransom ought to be paid at the

end of the  
the opposite side. Nothing that is not necessary for the  
punishing of Prisoners ought to be inflicted on them because  
the whole right of the Captor extends barely to the de-  
livering of them till

A Secular exemption to Prisoners of War occasion  
retaliation on their own countrymen so that a Prison  
ship is exactly instead of a citizen

It is pleasing however to observe  
that in the last war in Europe the treatment of pri-  
soners on both sides

at 1756

degraded those of this Country of examining the like mistreatment  
because they imagined that any treatment how cruel-sever  
was good enough for a rebel In England the Lord of  
the Whigs

called for the protection of  
in behalf of the  
unfortunate natives of this Country who were prisoners  
there

Africa or in the East Indies but before  
this which we have mentioned there are certain other laws  
of war which take place after victory & which come



who were formerly at war. The first of these is that the  
conqueror may avail himself of his power to enforce  
his own rights & to obtain reparation for the wrong that  
has been done him what the conqueror calls his right  
in the beginning of the contest he will maintain as  
just by the laws of war where war ends those  
who make war with a view of conquest take care to  
secure the greatest advantage to themselves by asserting their  
right to the subject in dispute at the beginning Thus  
Lewis the 14<sup>th</sup> claimed all Handers as his me there  
in hertshire

to the laws of But however ridiculous the  
claim was it was owned & submitted to when he had  
got the country which he claimed into his possession  
Preparation of damage has been often demanded than  
obtained by belligerent Parties The losers & sometimes  
both parties being so exhausted at the end of the war  
that it would be ridiculous to expect any thing  
from them Indeed in the last war between the Turks  
& Persians the Emperors of the war

which are now the only trophies owned by po-  
lite nations when a claim is gained by a war the losing  
party is obliged by the articles of peace to allow it to remain  
with the conqueror yet the crown of Spain in yielding  
Gibraltar & Jamaica to the power of great Britain

an article in a treaty remain-  
ing any injurious practice such as invading the territo-  
ries of others or searching or seizing their ships some-  
times constitutes all the reparation that is claimed  
by a war The Law is that justice was done not  
to constitute a right but damages & suffering incurred  
in war give a title of indemnification when a flaw  
taken in war cannot

The claims of a conquering army whatever they are  
ought to leave to the vanquished the Antients indeed ima-  
gined that the vanquished lost all their rights by sub-  
mission which they considered as immediately assigned to  
the conqueror this manner of grounding when they

they them-  
selves were obliged however to capitulate the Gauls  
they had as to ransom Jert which was just a paying  
when camillus came up to the relief of his country



in the same manner as in civil questions a man is justly  
obliged to pay costs that were incurred by means of his  
own injustice & inefficiency —

Lecture 163 April the 9<sup>th</sup> 1709 —

The 3<sup>d</sup> Law of War after victory is that the conqueror  
may take such precautions by disabling his enemy as he may think  
necessary to give himself a proper degree of security for the  
future the advantage gained by the conqueror enables him  
to dictate the terms of Peace for his own convenience accord-  
ing to the notion that he has of what is necessary for his own  
security now it is probable that a nation must be very much  
humbled before they annex such a state as may satisfy the  
conqueror that he has nothing to apprehend from their power  
or resentment the exterminating principles of the ancients  
were founded upon the dread that they had of the resent-  
ment of the conquest & their conduct on this head neither fit  
their courage nor their humanity in a very favorable light  
Even in the execution of public justice it has always been the  
policy of the East to involve in the ruin of the guilty  
person all his family children & relations that there

sought to none left to comfort his sufferings. The same  
principle of jealousy & dread has generally induced this  
menace to murder their Brothers & near relations on their  
accession to the Throne that they might have seen & prosper  
of it. The depriving the vanquished nation of the use of  
arms the outlawing fortified places & convenient passes  
into their country the depriving them of a part of their  
territory & the removing of them from one country to  
another are precedents which the jealousy of conquerors  
has often dulled to them in former ages for the same  
purpose in more modern times hostages have been  
demanded Harbours & forts have been retained by  
the conqueror & restrictions in Trade & navigation have  
been enjoined whilst the weakness of the vanquished obli-  
ged them to submit to & the jealousy & superiority of  
the conquerors led him to insist on Treaties being common  
by the effect of force can be expected to continue no longer  
than the necessity of submitting to them. The 4<sup>th</sup>  
Last cause of war after victory is that a Nation don't  
regard a property in the person of their captives as  
they do in effect. Casually seized either the more liberal  
Spirit of modern times or more probably a spirit of the



instability of fortune & uncertainty of consequences haunted  
them to abandon the custom of the ancients which was to  
make all their captive slaves with all their property  
now the Moderns considering that the consent to such a  
custom is opposed to the establishing a law against  
yourselves have wisely stipulated that those who have  
the misfortune to be taken in war may be exchanged  
or redeemed & that the conqueror cannot confine them during  
the war without claiming any property in ym It is curious  
to observe that it required the experience of many ages  
& the enduring of great & irreparable misfortunes to  
man kind sensible of the violation of natural justice  
in one plain  & in a case that so nearly con-  
cerned themselves on the other hand it is not less curious  
that what was looked upon to be the most voluntary  
misfortune & one of the worst effects of the rage of a con-  
queror namely the removing great numbers of people  
from their possessions to very distant places has now  
lost all its terrors & great numbers of mankind now  
insist upon themselves for their detention & even with views  
of Emolument that punishment which among the anti-  
ents was considered next to slavery as the lowest degree

of humiliation that the rage of a conqueror could inflict upon a conquered people. By the maxims of Compulsory Law a person may on every occasion maintain his rights even to extremity but from considerations of duty we may on many occasions be obliged to forgo it. The cases of private persons & of nations may be similar in many circumstances & both may often be restrained from going to the utmost extent of their right from considerations of humanity & duty. The conduct of nations is always the more laudable the more that it is influenced by rational & social feelings. "Summum jus est summa injuria" The rigor of justice is sometimes too much even for the feelings of humanity & he often is forced to surrender his right by being touched with a sense of the miseries of human affairs. "Sic lacrymae rerum"

Wellington is inclined to intercede for the enemy "datis obsequiis Wellingtonis" or rather

Carthage we often forgive their crimes & their misfortunes & a sense of justice gives place to generous compassion a person is more concerned to maintain & to excuse the affections of a benevolent mind than he is to preserve his rights & condition.



in any other respect. The importance of a man to him-  
self is seldom justly or sufficiently attended to but the sense  
of what we are has us an acting enters more into  
our propriety & modesty than our external circumstan-  
ces & situation with regard to others. The man who has  
waded thro' seas of blood & guilt to obtain the ingre-  
dients of luxury or the trappings of greatness & those  
riches which the world honors never reflects till it is too  
late that he has only been inflicting unspeakable  
torments to himself & rendering the sin of his existence  
a burden to him by the recollection of his deplorable & crimi-  
nal conduct which all the apparatus & devices of luxury  
cannot prevent him from thinking of.

"Depindes ceteri cui super"

"Non sinit dapes dulcem elaborabant saporum"

"et in avia"

The consciousness which a just & benevolent man  
has of his own existence is connected with the pleasing  
remembrance of rational benevolent & virtuous  
conduct & though his possessions may be very small  
they are all his own. & the "mors sibi conscia recti"  
flashes an immense value on them & gives them

arise what a man of opposite character  
can never find in his large possessions because  
they are none of his own but acquired by crimes  
The Conventional law of society on some instances  
as well as the law of humanity admit that the ex-  
treme necessity of one party may supersede the  
right of another Thus acts of grace for such insolvent  
debtors whose misfortune & poverty was not occasioned by  
prudent conduct & intemperance may be considered as acts  
of justice in spite of humanity for what can we de-  
mand of those who have nothing & who have been  
brought into that situation by circumstances which it  
was not in their power to prevent "Where there is nothing  
to pay says the French proverb the King loses his  
right & so certainly must every other man in the  
same situation because no man can have a right  
to what does not exist the clearest right therefore  
may thus be sometimes extinguished for want of an object  
according to the old adage "qui nihil habet nihil debet"  
But the case is quite otherwise with regard to those  
Bankrupts who are the effects of deliberate and  
shameful intemperance & scandalous falsehood -



These are the proper objects of the severity of justice  
& neither the apparent nor real want of justice on the  
part of the bankrupt ought to be considered as having  
the least tendency to strengthen the claims of the creditor  
Slavery & hard labour & life attended with infamy are  
the just & proper punishment of fraudulent or extravi-  
gant bankrupts. To inflict this upon them would  
not only be consistent with humanity, but itself the greatest  
humanity to the society as examples of that kind are so  
much needed to give men a sense of moral obligation & to  
deter them from the deliberate & shameful practice of  
injustice all the concerns of men are comprehended un-  
der their rights & their defenses these two are the great objects  
of Politics what is the business of all governments to secure  
& defend in the best manner a government an utter good or  
bad in question as they tend more or less to the security  
of these rights & defenses. We now proceed to enquire in  
what manner have actually <sup>vi</sup>proceeded for the security  
of both these by the several forms of civil government  
whether simple or mixed now that form of administra-  
tion of government must necessarily be the best which  
secures in the best manner the rights & defenses of men

without sacrificing any one of them to another as  
all human things are necessarily liable to imperfection  
we ought not to be surprised to find that there are in con-  
sequences & corruptions inseparable from all of them  
& that after all the efforts of human wisdom  
enlightened by the errors of a long experience

will still be found to elude inseparably to all the  
corruptions of opinion now this is what our ignorant & misph-  
room politicians can form no conception of from either expe-  
rience of history & human nature & from observing that  
all the defects of human policy are curable when taken  
 singly they foolishly imagine that it is possible for some  
man especially for themselves to contrive just a consti-  
tution or form of government as not only shall have no  
imperfections at all but shall be utterly incapable of  
ever admitting of any such but they do not consider  
that an assembly to prevent one imperfection might often  
occasion many more that the corruption of human  
nature tends equally

the violently to vents  
itself in an opposite direction & that after all the care  
that can be taken in contriving the forms of a free con-



the good & bad consequences. We hoped or dreaded from it  
will be found to depend infinitely more on the moral cha-  
racters & capacities of the men that are intrusted with the  
administration of it & the moral character of the people  
in general than upon all the regulations which ~~are~~ <sup>are</sup> ~~of~~ <sup>of</sup>

or bad Politicians

It appears from the history of mankind that men have  
always acted in troops & companies greater or less that  
they have had an idea of a common good as well as  
of that of the individual & that while they gratify one  
each for his own preservation they at the same time are  
naturally & necessarily disposed to consult the political  
forms & to unite their forces for common safety according  
to such plans as they approve & which they think will  
be most for their emolument the social nature of man  
is to be traced in every part of his existence & is equally  
to be improved from the cravings of his mature age as from  
the helplessness of his infant years Solitude indeed may  
please for a little from the charms of novelty or when  
men have no property interest or friends in society to

attract their affections but Society is the natural  
state of man to which he is invariably directed we  
alone can excite his passions satisfy his desires &  
lead him to the highest perfection of which his nature  
is capable The state of nature which is always propo-  
sed by writers who have been prior to that of society  
we have already shown to be a mere fiction. Society  
ill or well assorted is that state in which man is dispo-  
sed to fulfil that happiness which is always sought  
but never perfectly found in this life as the wish to which  
our nature is liable do not prefer themselves to our ima-  
ginations in a group or connected together but  
make their appearance one by one according to our si-  
tuations consequently the contrivances that we fall upon  
with a view to regulate them are commonly particular  
imperfect & calculated only

as it is common to observe that in our anxiety to  
guard against or regulate one evil we may hit in a  
greater one or even a number of them so that our  
vigilance in this manner is constantly excited & we cannot  
intermit it without instant & considerable loss an at-  
tempt to correct the irregularity of human affairs by



stream in which constant efforts are required & on which negligence is immediately attended with loss & retrogradation.

"Ac velute aduerso signis inflammare lumbum

"Pernigius subigit se brachia forte iuncta

"Atque illum in gressu bene rapit alius amni.

Common safety is undoubtedly the first motive to society as being in its own nature prior to all considerations of pleasure & profit. Dangers may arise either from wild beasts or from wild men. When the paternal government first became impracticable & injurious from wild men first made their appearance & threatened danger the election of a military chief was the thing that must have first occurred as being most necessary & most suited to the conditions of rude men that he might concentrate & direct their either prodigies or for acquisition. It may easily be proved from human history that most of the opinions habits & pursuits of men result from the state of their society & that men are more or less happy in proportion as they love mankind that their rights & their duties are relative to each other & therefore that their most important concerns & interests are to be found in their mutual

relations & in the state of their communities men are  
not men settled for family by nature then for them  
men are disposed to imitate one another & were to love  
one another when selfish passions do not intervene &  
otherwise to believe promises & narratives to take an  
interest in each others welfare & to find a great  
occasion to their happiness from the order improve-  
ment enlargement safety & enjoyment of the commu-  
nity to which they belong & all this without being  
able to give any other reason for it than that we are  
so made and cannot be otherwise if men had  
it naturally in their power to enjoy the greatest person-  
al plenty in a state of solitude & almost unknown to  
all others yet they would leave the offered blessing & choose  
the hardships of society for the sake of the pleasures that  
are mixed with them rather than the most unmixed  
possession of solitary & unknown happiness —

Lecture 164<sup>th</sup> April the 9<sup>th</sup> 1709 — —

It is fabled that Cupid being in love with  
built her a magnificent palace strowed with all kind of magni-  
ficence luxury & delights that when all her desires were granted  
& every thing that she could wish for was immediately brought



interrogatories in audible voices she had known of the  
company of Cupid her lover

all these delights she was extremely unhappy because she  
had no witness of her happiness & there for desired to see  
her lover at any rate & upon using a certain magical spell  
the Palace servants & onagonfuent furniture & cupid him-  
self disappeared in a moment & she immediately found  
herself all alone in

where we find this fable was a platonic philosopher of a sect  
that dealt much in allegories It is probable that he either invented  
or selected it for illustrating the social nature of man & the  
absolute necessity of society for his happiness One great depart-  
ment therefore in which the love of mankind may operate most  
effectually yet remains to be considered in the establishment  
of nations & taken in any independant company or society of  
men acting under a common direction, now the adjustment  
of the numbers of a nation in such an order as tends most  
to the security of their common & private rights of persons &  
to enable them to act with the greatest advantage to their  
common good constitutes the science of Politics or State wisdom  
The united form of members & the direction under which they act  
is termed the State the laws of law form the common direction  
in the government of all nations by these fictions the public

interest is performed & represented either by one person or  
more as is thought most convenient & agreeable to the taste  
& fancy of the people that fiction of law which is admit-  
ted by the greatest numbers & that to which all the inha-  
bitants of the country ought to be subordinate because the  
attachment of diff. persons to different fictions or forms  
of representing the public interest prevents their grasping  
by any of them in the mean time whether therefore the pub-  
lic interest & the public power will be satisfied by an  
arbitrary fiction of law to be represented by one person or  
by many & whether it is represented by those constantly  
or by succession of one to another yet the support of one con-  
fident fiction is absolutely necessary to the peace unity &  
safety of the nation. It may perhaps be thought extraordi-  
nary to place all forms of government on the foundation of  
a fiction at law yet nothing is more certain than that this is  
the case because whenever men begin to think differently & no  
longer to agree on the same fiction or personification of the pub-  
lic interest the whole harm is broken & the cause of their  
former union is at an end at once. The monarch & the  
Nobles who were formerly infinitely venerable & respectable  
while the belief of the fiction remained that is as long as  
they were believed to be such dwindle at once into more  
ordinary men whenever another fiction is contrived or



comes into request In the very same manner as a player  
who had for several years acted the part of a monarch on the  
stage after putting off his Robes & laying aside his costly

an ordinary & perhaps an  
insignificant or unskilled fellow. The art of all government therefore  
& the duty of rulers & subjects consistently in acting their  
several parts well & in supporting the nation with ability  
steadiness & propriety & the whole happiness that can be  
derived from government depends wholly upon this doing  
so men will easily believe that a man incapable of power  
who acts in a manner that is worthy of it &

submit to the honourable the use & the courageous mean  
or dishonourable conduct either in magistrates or subjects is that  
which breaks the charm & discovers the weakness at they are lost  
the whole wisdom of the wise consists in supporting the  
nation with propriety & in endeavouring to give it the most  
salutary & agreeable effect on the public interest a Philo-  
sopher who pleases himself with contemplating the plan of a  
perfect government either in his own imagination or in the  
writings of others is exactly like that man at Argos men-  
tioned by Horace who imagined that he saw & heard  
the performance of most capital actors in sitting in an  
empty theatre & watching a stage entirely empty  
that

"In vauis solus apor clausaque Theatro"  
But when we see him in the midst of his power & under any  
form of government that is actually established in the  
world he is like the same man when wind & fire mad  
up.

" Hiis ubi cognationem spectas cuiusque uelitis  
" Expulet Culemque.

ou d'eftes a miei non fenafte ait  
 Qui fu extorta

"nihil gratius error."

D<sup>r</sup> & C<sup>o</sup> among the Antients & Julius  
 Camello Sir Thomas Moore Sir James Wallington  
 Dr. Wallau & Mr. Hume among the moderns have  
 successully amused themselves in this manner in marking  
 draughts or projects of a perfect government. Father An-  
 dres Mendro a Spanish Jesuit has likewise bnd his  
 talents on the same subject. It would be endless to enumerate  
 their several peculiarities or the defects of each of these  
 systems but we may observe in general that all these  
 authors have found themselves obliged in order to com-  
 plete their Theories either to assume some principle  
 which does not actually exist in human nature



1  
so that none of you are adapted to human affairs nor capa-  
ble of being realized for the good of the public. The contempla-  
tion of them however is signally useful because it serves to  
point out the manner of reforming all real govern-  
ments so far as they are capable of reformation & de-  
scribes the notions & views of men by the image of ideal  
perfection when we say that governments founded on a  
general deception or the uniform belief of a fiction of law  
we do not mean government in general but any individual  
form of it that takes place in a particular country or exer-  
cise to others now when the public taste undergoes any change  
that form which had appeared so amiable becomes im-  
mediately ugly & exhibits most disagreeable features so that  
it can be no longer endured & another is substituted in its  
place. In the same manner as with respect to the fashions  
of cloaths these fashions which for one month are suppo-  
sed to be the most rational becoming & proper that  
could be imagined after two or 3 months become ugly  
vulgar & intolerable. The reason why all men love the  
name of liberty is because it is a more negative idea we  
signify nothing that is real but implies only the ab-  
sence of one evil namely restraint or force

much good & thus all that is in it but to this we add  
out of our own imagination the absence of all other evils  
& the possession of all goods what power we have of those what  
are incompatible with each other & now it is entirely these  
fictitious & imaginary additions which give the charm  
to the word liberty especially as every one grasps these  
additions according to his own desire or fancy & supposes  
liberty to comprehend property pleasure riches dominion  
or a regulation tho' indeed it does not imply any of all  
these & now if men <sup>knew</sup> ~~thought~~ that liberty signified only any  
condition in which a man is free from one sort of evil only  
that alone to it would be nothing so great nor the admi-  
ration of it so extravagant as we find that it common-  
ly is Nations

The happiness of individ-  
uals must depend much more on their own character &  
conduct than either on the form or administration of the go-  
vernment under which they live though these too may  
have an influence on it in some degree tho' schemes of perfect  
governments which we have mentioned all concern in suppo-  
sing man hard to be what they are not or in supposing  
some principle in them which is not or in supposing the ab-

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some of some examples which are inseparable from their nature  
but all the actual & simple forms of government are liable  
to the same objection even high degree monarchy for instance  
supposes much more virtue & wisdom in the monarch than  
is found to fall to the share of ordinary men & likewise  
supposes such baseness ignorance folly & incapacity in  
the greatest part of the subjects as if they were incapa-  
ble of conducting themselves in any respect or as if they  
stood in need of the constant terrors of arbitrary pow-  
er & cruel

to their duty -

Aristocracy indeed supposes equally to truth & na-  
ture that some men are virtuous & others vicious  
that some are wise & that the greatest numbers are  
otherwise but then

& nobility will be always found united with wisdom  
& virtue & that those who are deprived of the first of  
these will have as much virtue as is sufficient to  
qualify them for governing other men. Republicanism  
is the most outrageous of all fictions & utterly uncon-  
cillable to truth & nature because it supposes a  
whole people to be little less than perfectly wise &  
perfectly virtuous & sufficiently qualified to govern  
themselves at the least it certainly supposes that the  
wise & virtuous in a nation are always the greatest

member because the show of representation offends  
the governors. It left entirely to them perhaps it may  
even be returned a ready supposition to suppose that in  
any one country

the majority yet we must either suppose this  
or else suppose that a majority will always at least  
have an esteem for wise & virtuous men more than  
others & consequently that they will elect them for yr  
representatives & rulers however even this supposition

than the foregoing one but if we should not acquiesce in this suppo-  
sition we must embrace one that is still more hardy &  
not a little fashionable namely that wisdom & virtue  
are by no means necessary for representatives & rulers  
& that the ignorant & the vicious may promote the  
public good fully as well promoting they are chosen by  
a majority of the people but of none of the former suppo-  
sitions will satisfy

people are under the influence  
of the vicious part of the nation & that they will be  
generally determined by their advice & example but this  
is supposition non supposition or as being wholly contrary to  
the nature of things the best thing therefore with regard



none of the suppositions that we can make will come within sight of truth or probability so as to give us any ground that the form will be favorable to the wellfare & rights of mankind the fact is that all governments whatever whether simple or mixed are more or less at the least that can properly be said of any one particular form is that it gives more than is than the others of equitable

is the

equal enjoyment of rights any useful law or regulation that is wanted may be easily established & any public grievance may be easily removed providing that it were considered as such by the majority of the people but here again lies the difficulty how the majority of the people can be made to agree

wretched we

are composed mostly of wretched men the happiness or wretchedness of individuals depends mostly on their own character & on some extent likewise on the form or administration of the government and which they live under the form or the administration of a government may produce signal wretchedness to individuals even when their

as happy or unhappy either in respect of their resources  
or with respect to their institutions & national resources  
on the subject of public economy & national in-  
stitution  
law those nations may be said to be most happy who  
have the best resource & the best institution for securing  
the rights & desires of men. The right exercise of compul-  
sory law is the object of all political institutions & ar-  
rangements & public economy is necessary to enable  
nations to secure these ends in the most effectual man-  
ner. In discussing the natural history of mankind  
we look occasion to describe & compare with  
each other the several

consequences in the history of mankind  
it will be sufficient to remark here that all forms of go-  
vernment are entirely indifferent in their places and may be  
either more or less useful for securing the rights & desires of  
men in proportion as they are well or ill administered  
each of them has its particular conveniences its excellencies &  
defects a mixed government of Great Britain has no doubt  
been the most popular of all the mixed kinds & is accord-  
ingly adopted by many republics in Europe & now by 12 of



the United States but forms are of every inferior consider-  
ation in all forms of government  
every form is capable of every great thing  
even without the least alteration in  
its form Mr. Paine's opinion is certainly well founded.

"For forms of government let fools contend

"That which is best is best

In investigating therefore the happiness of nations so far  
as this depends on government in ascertaining the  
cause of it we will keep no particular form constant  
by or even test the old to be made well apply  
equally to each of them near as the pursuing a due  
example of compulsory law is the great chief of all  
government for public economy must be necessary  
for every state that it may be enacted to provide  
resources for securing the public happiness In coun-  
tries where there is no properly government is  
entirely unproductive & superfluous & liberty of no  
value whatever Law & government are not only  
necessary to preserve property but the resources that  
support these must arise from the property of the nation  
whose happiness is to be secured by them a happy nation  
therefore must at least have property sufficient not  
only to supply the natural necessities of its inhabitants

of government & enabling them to discharge their duty  
to the public a republican government may in one  
case be considered as most favorable to a poor people  
because the salaries of officers may be made smaller  
under that form than would suit with the splendor that  
afforded by monarchs & aristocracies tho' a too great  
sordidness in this respect might likewise be very hurtful  
to the authority & efficiency of republican government & to  
may tend to fill the offices of the state with courtiers more  
or more of little mind who wd. give themselves very little trou-  
ble with the duties of those offices that afforded them  
a small emolument. National resources include  
every article that tends to constitute the strength of  
nation or that may be employed for its preserva-

under 3 heads people wealth & revenue  
Some of these have already been considered in treating of  
the natural history of man in respect to the part over  
which to the course which men actually hold in the  
treatment of them but they are now to be considered in  
respect to their absolute & comparative value  
advanced



Populousness is the first fundamental resource for a nation & the

that a nation occupies a State situated in an Island ~~or~~ or on a part of the Continent where its frontiers that need defense ~~is~~ of little extent may be defended & defended much better by a small number of people than a State

by 10 times the number of the others may the very figure of the territory is of great importance because all figures are capacious or otherwise in proportion as the approach to ~~or~~ recede from that

territory is almost of as much importance to nations as to fortified places & for these fortifications are undoubtedly the best when the space

is least which presents the smallest frontier to an enemy & contains the greatest number of people in the smallest space the compact form of the Kingdom of France has been often taken notice of as contributing not a little to national convenience & resources but the convenience of a compact

considering the inconveniences of an incompact form of territory The dominions of the house of Burgundy

line of length without break so if  
they were incapable of defence & were all left in one  
day though they reached in length from the Eastern  
Frontiers of Spain to extremity of North Holland  
the Dominions of the present Emperor of Germany

or others from Belgrade to Milan a space  
of more than 900 miles & they must be conceived to  
wield for the very same reason & this weakness is one  
of the best securities of the Liberty of Germany & the  
other powers of Europe China & Holland contain the  
greatest numbers of people in the smallest space of any  
countries in the world

The value of numbers however  
in the compound ratio of their union & their charac-  
ter

moral virtue render numbers of people of no sort  
of significance to a nation but if both these are wanting  
the nation must be poor & miserable.

Society to make one out  
of many & to make numbers to act at once under  
a common direction no man individual can be said in  
truth to belong to the nation than can be made to act



if not as enemies vicious men are the reason  
er of every society & instead of adding to its strength or num-  
ber naturally tend to its destruction either directly or indirectly  
the population of a state therefore ought only to be com-  
puted from the number of virtuous individuals that it  
contains because the state cannot depend

on a people in consequence of  
their numbers sometimes become diseased & corrupted  
but this need suppress the convenience of their circum-  
stances just as wide dispersion

of government thus Egypt  
Rome was always retain-

ed with the greatest difficulty under the Roman  
Empire & for the same reason it is still

at all by the Turke-  
sh government tho' not so distant from their capital  
the Arabs Sythians & Tartars

regular government but these  
countries are constantly traversed rather than inha-  
bited by united & wandering tribes what may be  
referred more than half Savage nations man-  
ners may indeed be

but the more in-

crash of a people separated from other causes  
can have no tendency whatever to render them  
corrupt or deformed.

Lecture 165 - April the 10<sup>th</sup>. 1799.

Public every day of zeal or political dissimulation The greater part  
by this means are either thrown into a state of languor & ob-  
scurity or they brood private & secret schemes imagining that  
they have a quite different interest from the rest of the community  
by wide dissension & want of correspondence but in over igno-  
rance of public affairs & transactions so that they either conceive  
groundless prejudices against government or suffer themselves to  
become a prey to noisy ignorant Demagogues who promise to  
secure their rights by throwing all into confusion frequently &  
ease of commination therefore is absolutely necessary to states of  
large extent unmanured & fertile or rather population. The  
invention of Oaths though in use among the ancient Persians is



least recent in Europe but has been of immense use both for  
increasing the energy of government promoting unanimity  
among the subjects & diffusing knowledge of every kind with  
speed & efficacy To say nothing of the advantages of it to Trade &  
private friendship accordingly we find that that part of every  
state which has the convenience of Posts is already greatly  
superior to that part which is destitute of them in knowledge and  
morality The arts of life & acquaintance w<sup>th</sup> public concerns. The  
Swedes left thus liberty by being scattered & wanting opportunities  
of knowing the inclination of each other & the same must sooner  
or later be the fate of all those states which neglect the advantages  
of good roads & frequent communication. The Romans  
never imagined that it was possible either to govern or educate a peo-  
ple without good roads & they began with this article in all  
their conquests which proved a considerable means both of retain-  
ing them in their dependence & of bringing them into a cul-  
tivated & civilized state improvement or at least an easily com-  
municated when states modes of communication are promoted &  
facilitated by the public & without this many improvements  
might remain unknown more parts of the state while they  
were understood & gratified in another Human nature  
in states of a moderate extent has commonly suffered & exalted  
but in states that are either overgrown or ill governed



it has uniformly declined & degenerated. In a small state every individual has a larger exposure to the public & can be better known & more generally respected than in a large one. But in an overgrown state or in a state of scattered population a man is a mere atom & has no sensible proportion to the public at all, & in general can never belong to it. Besides, overgrown nations commonly degenerate into despotisms either by luxury when their population is abundant or by luxury & dissipation when it is thin & scattered. Now Despotisms have all distinctions both natural & adventitious & have no influence or consequence to any of the subjects who are all indiscriminated & sunk under the power of the despot. The size of most of the united states except two or 3 which ought to be suppressed is such as is very favorable for the improvement of the human character & for affording sufficient scope for men of eminent talents to distinguish themselves. Besides the consideration & importance which they might attain in a federal government. The luxury of overgrown states enervates the powers of men & when there are no rewards for virtue or real worth men of active minds will distinguish themselves only by such trifles as may give no umbrage to government & will be obliged to affect that insignificance & privacy which is the only protection of genius in arbitrary states. On the contrary if very great numbers are



ingudiciously crowded into narrow districts or cities they are  
much exposed to corruption & apt to become profligate debauch-  
ed licentious seditions incapable of social or public affections  
Too much or too little communication too distant or too  
close neighbourhood an extreme that is equally hurtful to  
the moral & political characters of men In a very large  
city the inhabitants cannot be all known to each other  
nor when there is a great number utterly unknown to others  
& engaged in the deepest obscurity in the midst of the great-  
est publicity thus numerous & nameless men living under  
no direction having no principles & having no regard to  
character & at the same time living under almost no restraint  
from laws become a sink of corruption & a seminary of cri-  
minality & may become a fatal engine of destruction in the  
hand of any Demagogue who might be able to influence &  
by imitating their manners & adopting their prejudices. The  
city of London E. G. by a very lax government & almost total  
want of Police contains at all times vast numbers of profligate  
& enterprising villains who use no industry & follow no  
lawful profession but subsist solely by playing upon the  
honest & industrious part of the inhabitants & they are  
the more dangerous both on account of their great numbers  
& their obscurity by which they are in no danger of being



worshipped there as well as here

has always prevented the English government from inquiring af-  
ter the innocent mist of villainy & they rather chuse to remain  
exposed to all this art & to live constantly in a kind of state  
of war than submit to a regular police which they think in-  
tolerant to liberty & would make them resemble arbitrary  
countries The late Duke of Newcastle when in demonstration  
pending his measures often observed by the London mob who were  
under the influence of the country members had no other resource  
than to hire a mob of his own whom he kept in constant pay  
& ready to take the field at a moment warning when ever the  
other mob offered to stir but the English ministry in the days  
of Wilkes had no recourse to this method which might have been  
very useful to him

obnoxious to the multitude The union of a people depends on the ar-  
rangements or dispositions which are made to employ them where  
the public service requires local affections inferior corporations  
& ties of neighbourhood are highly useful for promoting public  
spirit & union of affection by these means virtuous characters  
may acquire many talents may come to be  
known & neighbours have opportunities of communicating their  
opinions to each other & getting the better of their prejudices so that  
the nation may be immensely benefited by means of these  
already organized bodies which are the lesser members of



Nation was not only dis-  
posed to union by knowing themselves to be all of one family  
by but by the graduation of organization of smaller families  
into neighborhoods & by capture of thousands hundreds  
& tens which served to complete the cohesion of that wonder-  
ful people. It is true that their slavish temper & mutinous  
disposition often brought them into various but  
they only prevailed when the institutions of their law were neglected  
the union of the people in regular depends much more upon  
their affection to the community than upon the power that is  
established to enforce their service as the citizens of a free  
regular have nothing to fear their union can only grow  
from their voluntary attachment to the public & the laws  
must be expected to have but a very feeble operation when  
they are not consonant to the prejudices of the people now this  
is indeed the weak side of Republican government  
that it is almost impossible to make a law that can  
have any operation at all

• the prejudice of the  
people are always violently set against any institution that  
may have the consequence of making them do or suffer any thing  
against their will were it ever so just or reasonable the more that  
knowledge is diffused in a community good laws will more  
probably be made & certainly more respected & union more easily



maintained but to the Church the prejudice of the people are  
commonly very strongly opposed as they are exuding apt to  
disperse knowledge manifest confess dispositions unfavorable  
to that Morality which they call Liberty an ignorant &  
savage mob is much more difficult to govern than  
the most extensive population of regular & improving citi-  
zens & the fury of an ignorant mob always affords the best  
patent for introducing Tyranny or arbitrary power as a firm  
& ignorant mob can scarcely be governed in any other manner  
those that encourage mobs on the presumption of their being  
favorable to Liberty

a most effectual method for introducing Tyranny  
into their Country is indeed no country can subsist long without  
arbitrary government when mobs are frequent & met with incou-  
ragement the monarch is the enemy of the People

after by joining the state  
The manifest gradations of office rank & condition in a mo-  
narchical government enable such a chain of dependants a one  
way or other comprehend almost every individual in the state & the  
common dependance grows one of the firmest bonds of union  
in those States no one is so high but that he has his superior  
to please & none is so low that he cannot be greatly benefited  
by the favor & goodwill of those who are immediately above  
him or even be useful in some way or other to some who are far  
above him in rank now this dependance forms the union



of manners which is always to be observed among the subjects  
of a monarchy on the other hand the citizens of a republic  
having no necessary dependence on one another except  
the candidates for dignities

their passions for  
fear of giving offence the consequence of which is commonly a  
timidity & selfishness of behaviour which leads men to form  
the opinions of their sets have no regard at all to the  
judgment or feeling of their neighbours. This temper is  
much against union & further raises the citizens of a  
republic ought above all others to cultivate knowledge  
& Politeness of manners as by their independant situation  
they must have less mutual respect & contract a sort of  
Pride that commonly puts them out of all capacity of being  
instructed by the wisdom of one another so that in these  
circumstances every man has the more need to acquire some  
wisdom of his own as his sense of the independency of his situ-  
ation will not suffer him to make use of any other. The  
union of the people in despotic

regiment  
to enforce the service  
& subjection of the people a standing army under strict discipline  
& subordination is an awful object indeed to a free & unarm-  
ed multitude & the cruel public governments which are

inspired in State Criminals in despotic Government

so that they turn on one man on bed and to thus desert  
or his officers. Mirulaid of a certain minister  
of State in Persia that he used always to sit with both  
his hands whether his head was upon his shoulders every  
time that he came out from the King so awful and ob-  
ject as an absolute sovereign to those who entirely depend on  
him & who have no law to reform or defend their rights.  
The Character of the people

to attempt to reap & to prepare or to im-  
prove the advantages of their constitution & to support their country  
in pursuit of its objects but the number under the union of the peo-  
ple and no consequence at all as a national resource unless  
they have good moral principles & an industrious & prop-  
erly employed & unshackled or an idle people however numerous or  
however united must necessarily be poor & prone to sedition  
or having nothing to lose & every thing to gain in their  
opinion. Why the change of government has a love of  
truth & justice & a sense of honor & moral obligation are  
of greater importance & necessary than industry itself for this  
reason that industry cannot be exerted nor the powers of  
members combined for any national purpose of improve-  
ment without honesty & uprightness which are the



late peace had bestowed but <sup>the</sup> of the sum to encourage  
industries which they have childishly squandered on  
vulgar luxuries it might have contributed greatly to  
the union

times have delivered us from the greatest of our foreign & do-  
mestic debt 5 years of peace in the beginning of a new go-  
vernment are of much more importance than twice that  
period after it is supposed to have become stationary &  
Prejudices have taken a deeper root but industry is not  
only necessary to make populousness useful to the public  
but also

sooner than an idle people can do who are apt  
to become debauched & intemperate which of all things in  
the world is the most fatal to population.

Lecture 166 April the 10<sup>th</sup>. — 1789.

Different Characters are required under different forms  
of government under republics of every sort high degrees of probity are  
required under monarchy less & under despotism least of all. In a  
republic the appearance at least of virtue is necessary one of the  
heaviest objections it is ordinarily made against republican govern-  
ment is that it requires such degrees of probity as are rarely found  
among ordinary men & those who have doubted whether republican



government could be supported in this country did so because it  
was a question with them whether we had wisdom enough to go  
upon our plans & conduct actual experience of present & future  
the situation of our public & private credit has shewn to a demon-  
stration that we certainly have not too much now of state officers  
in general an distrust of integrity & yet are not made upon  
it for their management which has hitherto been the case  
what security will the public have in a little time for the up-  
right management of its affairs a sense of honor which is a  
great preventive of many crimes & otherwise much more  
can be found & more difficult to be supported in a republic  
but in a monarchy this example serves as a substitute for  
wisdom where it is not & for an inducement to it when it really  
exists the greater degree of confidence that prevails under monarchy  
makes wisdom less necessary or at least in a less degree than it  
is under a republic but the tool of a despot has almost no  
occasion for wisdom at all being except to the jealousy of his  
master or commoner with others also the hatred of the people by  
his office he must defend himself from the just by flattery  
& from the other by terror & uncommon severity under a mis-  
criming a ruler or public officer does not indeed need a very  
high degree of probity yet he will recommend himself to the  
people if he has the appearance of zeal for religion all an-  
cient & modern republics have been uniformly corrupted by  
a common religion our American republics alone are



the renouncing of all public concern for to support that this  
does not tend to the enervation of morality among them we know  
already that it will not tend to their enervation or grandviza-  
ment we will know in a little time the support of a pub-  
lic professor & exercise of religion has uniformly been  
a matter of public concern in all other countries in the world  
what form of government they adopted but here the  
support of religion is entirely abandoned to the discretion  
of private persons who may either profess any religion that  
they please to support or none at all if they prefer liberty  
without it & the obligation of contracts made for the sup-  
port of religion is not imposed by the law but all payments  
of that kind however solemnly contracted for are declared  
by law to be arbitrary & at the pleasure of individuals  
on this too we differ from all the world but whether it can  
be so beneficial to the increase of honesty & good faith in our  
mutual dealings to say nothing of religion the smallest  
degree of attention & concern will easily discover the pernicious  
effects in every state next to its political constitution are  
defense & commerce with respect to defense men are to be  
estimated by their hardiness courage & discipline from  
the very beginning of things all Societies of men have  
been uniformly envious of the possessions of each other  
& prone to seize them by force or fraud as often as they



have it in their power & for this reason no nation whatever  
can be properly said to be in possession of its territory unless  
it is in a condition to defend it against all invaders -  
a militia being generally disaffected at least comparatively  
speaking of discipline & subordination there been generally  
found greatly superior to regular troops though the combat  
ants were equal in all other circumstances besides a  
militia who have no property cannot be supposed to  
be very zealous or ready to run great risks in defence of  
the property of others on the other hand a militia who  
have great property are apt to be very tender of their lives  
& standing firm & numerous with respect to meeting  
an enemy men of small property on the most determined  
militia not being overawed by luxury & being sensible  
notwithstanding that they have something to lose. The  
of new England being so near an equality in  
fortune & unfettered by  
a number of them not long ago even rashly embarked on to  
burn their arms against their own country & to endeavour  
to ruin a government that was erected by themselves Solomon  
says rightly that wisdom is a defence & surely in political &  
economy it is of the  
duely possessed with enable men in ordinary stations to  
defence the real interest of their country & to be on their



of noisy Demagogues who never have nor can have any sense  
except among the grossly ignorant. The want of knowledge in-  
deed renders men as weak as children so that they easily  
become the dupes of artful Villains & but very ordinary  
parts are needed to persuade them to up in arms & to destroy their  
own laws & the defence of their own rights in behalf of a phantom  
which an Impostor calls liberty with regard to courage  
men are very unequal & it is not the necessary appendage  
of any determined character. Sometimes it is inspired by va-  
nity sometimes acquired by habit & most generally pretended  
to be Hypocrisy & towards not knowing what true courage  
is are apt to overdo it, appearances & are commonly dis-  
tinguished from others by noise & bragging being conscious of  
their defect they study to hide forth the appearance of a direct con-  
trary disposition & an ostentatious void to be covered merely  
by pretending to have much less apprehension of danger  
than men who are truly brave but real courage is most  
commonly the effect of natural constitution many bad men  
have been eminent for it & some good men have had very  
little of it. In a national militia where discipline is gene-  
rally slack & subordination proportionally weak courage ought  
to be universal being almost the only principle of union  
that can be depended upon in such a society & when this is



fatal even to many brave men During the late war the  
enemies of America often exulted very much in the effect of  
sudden Partis not duly considering the loose & misfel-  
laneous materials of which her militia were necessari-  
ly composed Discipline cannot be attained on a sudden  
& the habits of obedience which are

free people who  
are utterly unaccustomed to obey one another Min ex-  
perience & rustication serves oned to bring them to a near  
resemblance to regular troops in respect to command  
more an to be estimated from their industry & from their  
skill & application to profitable arts agriculture indeed  
is justly considered as the mother & nurse of all the arts  
because it supports those who study & gratify them but  
agriculture considered as the sole profession of a nation is  
the poorest that can possibly be imagined & the least  
capable of improvement because as soon as a country is tole-  
rably settled it has reached its zenith in this respect &  
can go no farther beyond the productions of agriculture  
being weighty & profitable must either find a market  
or food on the hands of the Farmer & the use of them  
being only their plenty & sometimes depreciates almost  
to nothing which is a very melancholy consideration where



Commerce denies its materials from agriculture & manufactures  
the exportation of crude or unworked materials is bulky troublesome  
& of little profit but the exportation of the fruits of manufacture  
& labour may be profitable in any considerable degree manufactures  
increase the value of land & where it is encouraged greatly  
enriches it in its annual produce thus the land of England  
highly improved as it is would afford only a poor national reve-  
nue even when taxed at £1000000 Commerce & ma-  
nufactures are by far the most valuable & productive national  
resources but the fruit of these depends wholly on the last  
The Indians are not more dependant on the Europeans  
for their gun arms ammunition rum blankets & tomahawks  
than any other nation

They want the cultivated state of Italy  
it cannot be expected that any one nation will flourish  
wholly on its own product therefore commerce which ex-  
changes the products of diff. climates becomes extremely ne-  
cessary Every Nation ought to export at least an equal  
value to what it imports otherwise its wealth must be in a  
constant diminution & it will must increase proportion-  
ally

that require a speedy remedy  
Unprofitable arts are ruinous in proportion as useful arts are  
profitable to the public retrenching superfluities may be  
considered as a national resource but it requires a re-



source of another kind namely a suitable stock of courage  
which is generally wanting but the virtue as well as the  
knowledge of a people may be considered as an important  
national resource the political economy

Economy of each individ-  
dual in it. Sumptuary laws have been adopted by many  
states as national resources or defenses against luxury but they  
are generally unpopular & excited a loudly complained  
of as inconsistent with liberty. Duties on certain

prohibition are equally  
to be opposed to sumptuary laws but the imposing of  
duals & surfs imply, when the law has no energy & the  
pretence of the state cannot be defended in this case the  
wisdom & virtue of individuals is the only resource all other  
resources being impracticable. There is scarce any instance  
in history of a nation having recovered its liberty  
after having once totally lost it nor of its retaining its  
liberty any considerable time after it was invaded by  
luxury

as the surest means of gaining acquiescence of  
from circumstances otherwise favorable popula-  
tion always keep pace with the art & means of subsis-  
tence

a variety of professions by which a family may  
be supported & the rulers of a country must menage



in the very same proportion Property realized by  
labour may be multiplied to a vast degree & a great  
deal of it may be produced in a very small space thus  
there are many trading towns in England each of which  
contains much more wealth

States & the city of London many times  
more than all of them put together the want of frugality is  
unknown to nations that have no internal resources it is only  
expensive to industrious & commercial nations when the  
means of subsistence

is a family supported very few in number a nation can  
not become populous such institutions as encourage the settle-  
ment of families & facilitate the raising of the  
of  
pro  
& growing opinion

Frugality sobriety  
& chastity are considerable national resources & tend most  
essentially to population Luxury indolence Slavery & debauch-  
ery are detrimental to it in the same proportion as they prevail  
States of industry attachment to one's native soil a regard  
to hundred neighbourhood & above all a regard to mo-  
ral character may be reckoned the most considerable &  
fundamental national resources with respect to popu-  
lation because they tend to . The frugal & most  
useful class of citizens & to attach them to the place



many Emigrants must otherwise be poor & wretched  
become so by that circumstance unless the Emigrants were  
protected by public authority as they were in ancient  
Greece from those who had the resources might  
be more

second on the other hand a country  
that receives many emigrants may quickly become populous  
but a long time is necessarily required to make emigrants  
capable of union with each other or susceptible of a nativ-  
onal spirit or firmly attached to one another when the  
attachment which a man has to his native country  
is once violently torn up by emigration it will never  
spring again with the same strength into another  
Several ages may be requisite before a collection of  
Emigrants can be properly consolidated into one people  
or conceive any degree of affection for their own country or  
place of abode charitable funds are given for the poor  
constitutes another encouragement to population & conse-  
quently a national resource some have injudiciously  
claimed these as well as charity schools as hasty at to  
industry but when they are not the effect of laws  
but of voluntary contributions they are no less resources of  
population than gifts of the virtues of the people. Humbling



destruction of Population & Industry Men are said to be  
rich when they possess the means of domestic subsistence accom-  
modation & ornament richer or a more conspicuous advan-  
tage & can be possessed only by a small number or very  
few because they suppose poverty which is comparative  
in like manner a nation is rich that contains many  
rich individuals, wherever men are industrious & ex-  
ercise useful arts with judgment  
will gradually accumulate especially if industry is  
accompanied with frugality an equal distribution of pro-  
perty or any thing that comes near it is neither  
practicable nor desirable then can be no life or perfor-  
mation in a nation without the spirit of acquisition & they  
cannot exist without the practice of useful arts & the suc-  
cesses  
threatning to  
this country next to the prevalence of impurity vice &  
disorder as the

justice property & government wealth is a national resource  
because it may be employed in maintaining itself or for  
usable men & in supplying the exigencies of state men brought  
to labour for the public as well as for themselves. Don't taxes for  
the support of government are a nuisance & just as those  
that are called indirect or invisible & they are the men  
nuisance in such states where invisible taxes cannot be im-  
posed or lived when property abounds in a few hands it  
may be laid out for the public good especially if  
credit & confidence exist among the citizens that  
men will not lend their money to those who do not  
pay or not to be worried out because a sense of  
justice & of the right of property is a natural sentiment  
which no living political institutions or even corruption  
of manners can ever eradicate from the human mind  
Even fraudulent debtors thieves gamblers & Bank-  
rupts will consider it as very hard that others should deal  
with them in the same manner as they deal with others  
The greatness of such men in a state is to support &  
employ the poor to lend out their money to those that  
are honest to pay better rates in proportion to it.



to excite an emulation among the people that by the  
labor industry & frugality they may hope to attain  
to the like immensity in wealth the human faculties  
entirely languish when they have no

Prize is the natural & uniform  
object of the industrious but when this is put out of their  
reach by twining laws or luxurious opinions & practices  
they must turn their activity against one another which  
is most of all to be dreaded in a free government. The  
constituents of wealth may be considered in respect to their  
value & in respect to their price

manufactures constitute real  
wealth when they are greatly above the necessities of  
the possessors money is only the sign of wealth & has a neces-  
sary relation to the produce of industry but when these do  
not exist money finds no way to another nation  
where they are to be found The last war instance must  
have brought a vast influx of money into this country  
but the productions of industry not being

the greatest part of this money has already found  
its way back again to the countries from whence it came  
for the purchase of manufactures or unmanufactures. The multipli-

cation of  
into any country or bringing it in it increase the productions  
of arts will always be sought for at any  
articles of wealth is to be computed  
from their real use to human life but their own must  
always be in proportion to the demand & the possibility  
of growing them

examination of Confucius for a thing cautions him  
against using superfluous articles altho that might  
be very useful if attended to as it ought not only to  
be things but to great multitudes of private citizens

Lecture 16<sup>th</sup> April 1789 —

who cannot pay for them or who scarcely can provide themselves  
with ~~superfluous~~ the tendency which luxury has to promote in  
detestable vanity & insignificance & to create a disgust for labour  
industry & usefulness. Indeed the luxuries of the rich while confined  
to them only may support numbers of industrious poor but when  
these luxuries are wanted by those who cannot grow them lawfully  
the love of luxury becomes a powerful incentive to crimes as well as  
a temptation to treason & may in time prove fatal to the  
liberty of a nation by rendering the citizens incapable of de-  
pending themselves as the use of wealth is to maintain a common



date men articles or commodities are valuable in proportion <sup>to</sup> the num-  
bers w<sup>ch</sup> they are fit to maintain & accommodate only the means  
of subsistence & defence are truly necessary & all other articles be-  
long only to accommodation & ornament. These means of accom-  
modation which contribute to the preservation of men & to the in-  
crease of their vigor & health are next in value to the neces-  
sary of life. Articles of mere ornament are of no value at all ex-  
cept when considered as an export whereby to draw articles of  
real value from other nations. The Kingdom of France by  
being accustomed to set the fashion to all Europe is a very great  
gainer by articles of ornament. The production of French ar-  
ticles which are in request every where through England by engrossing  
on the inventors of her neighbours has now come in for a conside-  
rable share of the same sort of trade but the trade of ornaments be-  
long only to real & industrious. The Dutch have gained  
no little from savages in sundry parts of the world by exchanging  
the glass beads & other toys of small value for the productions of  
their country but in a civil country where this useful art ought  
always to flourish the

The luxury of a people is to be estimated by the degree  
of their consumption of mere ornaments, & when these are brought  
from other countries they ought to be considered on much more  
jealous than by being paid for either in articles of real use or  
in money whether necessary for carrying on the commerce of a  
country or for itself. Abundance of luxury must soon

produce than necessary or a want of measure. It likewise tends  
to encourage indolence & to ~~enlarge~~ <sup>enlarge</sup> the length of the point of  
defence. The price of a commodity is measured by the quan-  
tity of any other commodity that is commonly or occasionally  
given in exchange for it. In Barter which is the most original  
Species of Commerce the wants of the Parties determine the  
quantity of each commodity which is to be given in exchange  
for the other but all commercial nations have adopted the  
use of Gold & silver as a sign of value or a common standard to  
which the price of different commodities might be reduced & which  
might fill the place of such as were not wanted hence money is  
considered as the equivalent of all commodities & the constituent of  
wealth but on the other hand Commodities are no less the equivalents  
of money & the abundance of any one species whether of money  
or other commodities will bring a corresponding increase in the whole -  
Industry is the common parent both of money & all other  
commodities & wherever it prevails will purchase either or  
both for this reason there is much more money as well  
as more goods in Holland than in any Country in Europe  
of late its extent though its nature produces but little more  
of its inhabitants but their industry has produced wealth & even  
luxury in the midst of a barren morass which besides regains



by the Sea the acquisition of wealth is however much more easy  
in an extensive & fertile soil capable of a great variety of rich  
productions yet even such a country must necessarily be poor  
if its wants in destiny the price of commodities fluctuates &  
hangs & all with the quantity of money in circulation with  
the scarcity of the commodity with the demand & with the value  
of those that consume the article we have already seen that a  
great increase of money in a country such as occurred here  
in the untold days of Congress paper tend to enhance the  
price of labour & of all commodities what power will the super-  
fluous quantities exhaust when a commodity is scarce or  
when great quantities of it are wanted or a particular one for  
such as arms & gun powder in time of war the price must  
& whenever the demand is supplied the arti-  
cle resumes its former value which is only in proportion to the  
remaining demand when nations or individuals have a  
demand for any particular article they will enhance the price  
yet in the same manner as great numbers of people the  
price of all commodities therefore is mainly & depends  
on the demand the ability of the consumer & the possibility  
of procuring the commodity articles of ornament are fre-  
quently of the greatest price thus precious stones on account

of their rarity & thus not being subject to decay as well  
as on account of their easy conveyance have always been  
highly prized by mankind & although Spain & England in  
particular has been able to counteract the appearance of most  
of them with considerable success they still retain their value  
& even the Diamond mines which the Portuguese have discover-  
ed

those of the East may they even retain their value  
in the very countries where they are produced. The tea-leaf  
being brought from the other end of the world

in China & what is there  
the ordinary drink of the labourers with the mixture of  
a little salt & is used merely with a view to correct the  
bad quality of their water becomes a luxury in Eu-  
rope & America & was accidentally the occasion of the be-  
ginning of the late war Commodore. That on the effect  
of labour time & cannot continue to be sold for  
less than what will maintain the workmen & pay the  
whole of his advance. The ancient Greeks from an En-  
thusiastic love of game would often spend whole years  
in making a single statue & their painters were also  
noted for the slowness of their progress on their works but this  
circumstance as well as the correct taste & amazing success  
of these artists stamped a great value on their productions



The Italians are the only artists among the moderns  
that can be compared to the Ancients with respect to <sup>stimulated the</sup> ~~it~~

price must be such as will indemnify the artist for  
the loss of so much time & trouble & encourage him to  
employ himself further in works of a like nature  
of all the productions of art & industry the works of  
men of learning before the present century were of the  
smallest price & most poorly rewarded before the Statute  
of literary property in England in the reign of the late Queen  
Apothecaries had little or no reward for their productions  
which they communicated to the public

only 15. for it is a  
addition of his works on the other hand the late Mr.  
Voltaire often sold the same Book under 4 different titles at  
high prices to four different booksellers at the same time for it  
cost him nothing else he may be truly called an ingenious  
author because the greatest part of other authors I have been

overwhelmed them. Since printing & Book selling have  
become gainful trades knowledge has indeed been more diffused  
& a general attention to learning has indeed been more  
universal but still & I am sure knowledge has since that time

become every day more rare The most valuable productions  
which have contributed most to the good of mankind have  
brought no profit to their authors. Horace indeed speaker of  
good words as sometimes even money to the Booksellers  
but he seems to have had no idea of this

"Nec

"Nec it more transit

Learning has indeed been very little improved since  
it became a trade Mr. Dolemain indeed realized a fortune  
of more than 5000<sup>£</sup>

tricks which he used in getting them off & his  
buying great sums from persons of distinction in different  
countries by way of subscription for his books which how-  
ever he never furnished but left the subscribers to buy them  
when they pleased the favors that he received from sundry  
Princes & Courts contributed greatly to the increase of his for-  
tune Court & additions of the Caspers & other ancient

Holland

Arsana & the Republic of Venice of learning should  
ever come to prevail in this country the business of print-  
ing & Bookselling might come to be of considerable

which it would afford to an ingenious & laborious mind  
to furnish the inhabitants of this wide extended country



They can maintain for the cost of a commodity may be estimated by the number of times employed in producing them. The wealth of any country is in the compound Matter of its natural advantages, the industry of its inhabitants & the profits of Trade but of these the skill & industry of the inhabitants is of the far greatest importance because many Countries which possess great natural

Spain & a great part of Italy as well as the whole of Greece are now very poor thinly inhabited & wretched though they were the genuine abodes of greatness & industry in former ages. Tyranny has generally been fatal to trade accordingly we find that Tyre Carthage & Rhodes when commerce flourished most in Antiquity were free republics but property must be secure before any nation dares to apply itself to it.

The inhabitants need only to be excited for they will not refuse to labour when they know that they are labouring for themselves that their wages will be paid to them & that the fruits of their labour will neither be torn from them by a lawless despot nor by a bloodthirsty Banditti. The English Tradesmen generally have plentifully have great profits.

their own fault when they do sell them they get their  
own price but they have no reason to fear that any body  
will despise them of what they have earned even those who are  
much richer than their neighbours natural advantages are  
goodness of climate fertility of soil & plenty of useful ma-  
terials Industry & skill comprehend all useful Arts agri-  
culture & manufacture in all their branches & Nature  
has left room for art & industry & even in the richest  
countries these are necessary to procure the supports & accom-  
modations as well as the dresses & ornaments of life  
Tacitus tells us of an antient nation in Germany whom  
he calls the Fenni who had neither arts cattle nor  
houses their whole possessions were their bows & ar-  
rows which they pointed with bones for want of iron  
& they lived on wild game they had no other cover than  
the woods & yet they valued themselves greatly on their  
happenness liberty & independency & that they did no  
work except hunting for their provisions "De creaturis  
arbitrariis"

domibus  
suae aliquasque fortunas se neque curari  
suum adversum homines suum adversum Deos."  
Such a people having no property had no reason  
to dread an invasion & they enjoyed their beloved



But the historian who was an Equenian thinks  
that it was not even in the power of the Gods to make  
them more wretched than they were already. It is very  
proper for youth to inspect the state of such nations as  
those that they may learn to value art & civilization

recommends the reading of the history of Melvin for Chaceau  
for the same.

Romanus extracted the grand work of it from  
the papers of Alexander a Scotch Seaman belong-  
ing to the of Commodore Rogers who was left by  
accident 3 years on the Island of Juan Fernandez in S.  
America

1744 he counted many Goats that  
had ear marks & consequently

The comparison of the history of any one country upon the in-  
troduction of the arts with the state of the same country of-  
ter their introduction will likewise have a tendency

of Glasgow  
which is now highly cultivated & commercial & contains much  
more property than the whole of this state was inhabited then

A Century by the Attaloti a race of Cannibals  
the Shepherd re-  
ther than the flock in the same manner the country  
lately the abode of barbarous nations has begun to as-  
sume the appearance of civilization & to possess some of  
the productions of Art It ought to be the endeavor of every  
lover of his country to increase its products

The culture of  
the Art. a little more industry & unanimity & a little  
more morality might free us from our difficulties  
by recovering some tolerable degree of character & America  
in a short time might become a rich happy country &  
possess a reputable rank among the Nations of  
the world

Dec 16<sup>th</sup> April the 15<sup>th</sup> 1709

The profit of Trade is the profit either of the consu-  
mer of the produce of the merchant or of the state the profit of the  
Consumer consists in his being supplied with necessary or useful com-  
modities the profit of the producer consists in the want of necessities  
the profit of the merchant consists in the balance remaining  
in his hands after he has paid costs & expenses the profit of the  
State consists in the increase of wealth or the accumulation  
of commodities in the possession of its members now no trade  
properly speaking ought to be encouraged which is not pro



plable in some tolerable degree to all these parties but if any burden  
of Trade can contribute even to the profit of the merchant singly  
it will be carried on however hurtful it may be to the other par-  
ties because merchants will always import whatever they can  
sell to advantage. now the hurt to the state in these cases  
is done by the consumer of useless commodities whose customs alone  
can encourage the merchant or make it his interest to import  
them it appears indeed to be very ridiculous though we daily  
see numberless instances of it that these people complain of  
the importation of foreign luxuries who are themselves very guilty  
of encouraging the importation of them in the most effectual man-  
ner by buying & consuming them. If men had only virtue & re-  
solution enough to many in this country once to sign an  
engagement of non importation & non consumption with regard to  
all such articles as are known to be unnecessary & ruinous  
they might then with some decency complain of the encourage-  
ment that luxury meets with among us. One tried that  
among industrious nations the loss that is sustained by the pub-  
lic on one article may sometimes be balanced by a greater  
gain made upon another thus England &c. imports many  
articles from France Holland & the East-Indies that are use-  
less & hurtful to the public but the vast quantities of com-  
modities which it exports to all the countries of Europe & else-  
where to this country greatly overbalances the loss that is



justained upon the other articles & many even of these  
upheld articles by being reexported are upheld by common  
duties of great utility but a country like this which  
exports so few articles for exportation in comparison to  
its imports cannot afford to deal in any superfluous com-  
modities & ought not to export that imports of this kind  
can be balanced by profits on exportation because all our  
articles of export as yet fall far short of being able to supply us  
even with what may be accounted necessities but if we could  
produce commodities in such plenty as after serving ourselves  
could produce a surplus for sending abroad the profit  
in that case would be acquired to the producer when we pur-  
chase foreign commodities we ought not only to consider the  
original price of them but likewise that of Package  
Provisionage, Portage, commission, insurance, Duties,  
Freight, & sometimes duties, the profits of the Merchant, & the  
profit of the retailer for all these latter must necessarily be  
added to the original price & it has been demonstrated by  
the calculation of intelligent Merchants in this country that  
the sum of all these additions to the original price amount  
to a great proportion of the whole & at the least to 25  
per Cent. even with respect to the least bulky commodities  
from this it is quite certain that goods manufactured in this  
country must necessarily bring 25 per Cent more profit  
to the Domestic Manufacturer than goods sold at the same



one from <sup>abroad</sup> could do to the Merchant because none of  
these charges are added to their own which are necessarily  
included in the price of the others. The principles of Commerce  
are a trading plain & obvious in themselves they demand only  
attention & calculation & may be made evident to the very  
meanest capacities. It is a melancholy observation that the  
people of these states have reduced themselves to great poverty  
both with respect to property & credit not from ignorance  
of subtle maxims or want of acquaintance with the  
mysteries of Commerce & Politics but from an excessive  
want of attention to the plainest rules of Arith-  
metick & common sense that certainly might have been an  
obvious lesson to any others among mankind. It may  
perhaps surprise the inhabitants of this Country to be told  
for instance that ever since their independence by their  
own choice they pay or rather they owe for a ~~not yet~~ paid  
a much greater proportion of the British Tax than Lord  
Dorset's w<sup>or</sup> ever have demanded of y<sup>e</sup> by reason of the ex-  
traordinary encouragement which they have given to the  
Trade & manufactures of England to their own hurt. It is  
whenever melancholy to reflect that a people may some-  
times be more hurt by being left to themselves &  
thus our independence evident than by being at the will  
of their enemies for surely the English Merchants &c.

Traders must charge the consumer which  
on this  
explanation so that we as the consumer of these com-  
modities are the people who really pay these duties now  
we do not pay by any means that they ought not to be  
paid because they have been justly & thoughtfully  
incurred far to push a thought from every person of honor  
& virtue but we only say that we ought not to have an  
obligation to pay so vast a proportion of the British taxes  
by purchasing so enormous a quantity of these commodities  
Men who practise frugality & uprightness in their fami-  
ly & private transactions do not need to be told what are  
the principles of rational commerce because every man  
of sense knows them already & daily practices them  
in his transactions with his neighbours by buying no  
more than he needs by paying for all that he buys &  
by using as little as possible of what is imported from abroad  
& by living always within his income now these few  
maxims which are obvious to the meanest understanding  
might have been a vast mine of wealth to this coun-  
try if the citizens had only been wise enough to have ob-  
served them & as they are so very plain the neglect of  
them cannot be attributed to ignorance but to gross  
indifference & indolence or thoughtlessness or deliberate per-



proof of injustice. All articles of Trade which ought to be  
encouraged ought to be equally profitable both to the  
exporter & the importer of you because a trade that  
is hurtful to other nations is not likely to be long con-  
tinued & a trade that is hurtful to ourselves ought  
neither to be permitted nor encouraged but on the contrary  
ought to be charged with such heavy duties as might  
be equal to a prohibition with respect to all articles that  
can be produced by our own industry. The state is profited  
by every kind of Trade which is able to bear light du-  
ties without being hurtful either to the purchasers or con-  
sumers when gain is accumulating to the members  
of the state. The state may be truly said to be a  
gainer because the wealth of the citizen is the nation-  
al resource of the state & the property of the citizen is  
dependent by means of good government is that which  
must pay for its own defence but the frugality & virtue  
of the citizen & the accumulation of their property by  
that means is the greatest of all national resources &  
to us would be equal to the profit of a most gainful trade  
"magnum utique est parsimonia" without this re-  
source even all the industry of the inhabitants of  
Holland would never have been able to have suppor-

led them farther to have raised them to that Emi-  
nence of wealth

Relations Commerce by accommodating all  
parties with what they want in exchange for what they  
can spare enables & encourages them to increase their  
produce for a profit is the only ind. of labour the pro-  
fit prospect of profit must be the chief encouragement  
to it now if a labourer knows that his work can be  
sold to advantage either at home or in a distant coun-  
try he will be equally encouraged to labour in both cases  
without the assistance of commerce vast quantities of ma-  
ny commodities would perish altogether & be quite useless  
to the producers of them but articles that are produced in  
great plenty will afford a surplus to be exported those  
articles that are scarce in any country may be sup-  
plied from a distance & paid for by the surplus expor-  
ted The effect of commerce is the diversion of the pro-  
fits of nations equally by supplying every one with  
the superfluous of every other & in this manner grows  
the most general incitement to labour every where so





is so considerable & its returns so quick & numerous that  
in many places of that Country a man may  
profit at each time

because the country is cut by canals & navigable rivers  
& as many people are supported there on the water as on  
the land though there are numerous & populous  
beyond every thing in Europe. The United States possess by the  
United States contain almost as great a variety of soil  
& climate as Asia & with equal industry might  
reap almost as many conveniences

their several products  
if they wd. give over their selfish jealous & political  
squabbles & exchange the unproductive business of cobbling  
laws & constitutions for a rational care of their true &  
proper interests their numerous rivers & bays might then  
be of immense consequence to them & foreign trade might  
become comparatively a small object but their unhappy

pride & animosity as they have occasioned have  
not only hurt their union but their property & interest to  
an amazing degree & prevented many improvements & ac-  
quisitions of property that might have been made already  
It is exceedingly lamentable to observe that a navigable



1  
was given up because it joined two states & each of them  
was afraid that it would have been for the benefit of the  
other now while the minds of men are in this situa-  
tion they need scarcely talk of Union as they are not  
capable of it but appear rather to have a spirit of hos-  
tility to each others interests Commerce between dif-  
ferent nations may be considered either in respect to  
the balance in gold or to the balance of value

difference which is supposed to remain due by the one  
nation to the other after applying the whole of the goods  
that have passed in exchange between them but the bal-  
ance of value is the difference of real utility on the  
whole goods that was passed in exchange the profits  
of foreign commerce ought to be determined by the  
balance of value & not by the balance of Price  
in some particular instances the nation that has  
the balance of gold against it may have the  
balance of

of despoiling or improving its lands or ex-  
tending its trade or other national advantage in  
exchange for articles of luxury or matters of mere

accommodation ornament In general foreign Trade

that is when  
the balance is in our favour but it may sometimes otherwise  
be necessary even when it is not profitable because the  
rules of public as well as of private economy permit  
the purchase of our goods even at high prices when this  
can be compensated either by exportation or nonconsump-  
tion of superfluous. The error only lies in continuing  
a foreign trade when it is not necessary & while the bal-  
ance of value or price is against us for if we it is pro-  
per that in any case we should give more than  
its value for any thing whatsoever it must be only  
for our goods. Thus those nations who in season  
purchase grain or other articles of provision from other  
nations may be said to be gainers by having  
their wants supplied tho' the balance of Price may  
be against you but in seasons of ordinary fertility it  
would be quite unprofitable & contrary to the inter-  
est of the augmenting of these nations to import  
grain or provisions at any price however low those  
nations which have little or no grain such as  
Siberia of old Holland & Norway & the West-India



may enable them to import grain expeditiously from other countries. The Dutch import such quantities of grain as not only to supply themselves but likewise to have a great stock always on hand for exportation to any place when it is wanted. The fish oil & wood of Norway together with the industry of the people & their national frugality will enable them to import grain from Poland & the North of Germany but those countries whose staple articles of export is grain must always be poor unless they have a stated market to which they can send their goods by being in commerce with some nation or country where no grain is produced but when this is not the case their profit at best must be irregular & temporary as well as generally small & if the market is at a great distance their profits must likewise be very uncertain & greatly lessened by the charges of exportation especially by

in produce & the cost of exportation. It is a great loss indeed that the staple export of the middle states is grain while now that the West India Islands are shut against us has so uncertain a market for a

method & no chance at all for an uniform & pro-  
per one the more grain therefore that is raised in this  
country the less always

c manufacturing

towns were enabled to consume our produce at home &  
to furnish us with such goods in return as we now  
buy at great disadvantage in foreign markets which is  
from a mighty advantage not only by the price reu-  
ed by the farmer but by saving the expenses on a  
bulky commodity because in our export situation many

spend the third part of the value upon the land carri-  
age of their produce which reduces their profits to a trifle  
sometimes to nothing at all when they receive payment  
in foreign goods & contribute to the roads of com-  
munication the nation that owes the balance of  
Price in any foreign commerce will be obliged to part

because a Trade in which a constant balance  
of Price is incurred such as our Trade with Gr. Britain  
cannot be continued unless there be a continual sup-  
ply of money flowing into this country  
commodity produced in this coun



try

now the ballance of a continual Trade of this kind  
must be continually increasing

~~the~~ Debt which this Country owes to England

at present but the general want of authority & order & the

incongruities at present among us it is computed  
however by foreign relations when we cannot but  
doubt amount from being known & must now have  
unfolds such a firm as must give the greatest con-  
cern & affliction to every lover of justice & of his  
Country

The internal Trade of a nation or the Transactions  
of fellow citizens with one another for the supply of their mutual wants  
requires such a quantity of money in circulation as may be  
sufficient for carrying on these Transactions but if by the ad-  
verse ballance of a foreign Trade in luxuries industry is regulated  
at home & the money that ought to have been in circulation  
is sent abroad in this case all these Transactions of citi-  
zens with each other must either cease or be managed in

the manners of Barbar in the same manner in which they  
were before the introduction of money now this would grow  
it def unless a man could always  
have a load wag or a drove of cattle along  
with on the road

No blame the Merchants for paying y<sup>r</sup>  
foreign debt in money when they cannot pay them otherwise  
for want of marketable articles or exportable produce. Those  
of them only ought to be blamed & punished too if any  
law for that purpose could be obtained who villainously defraud  
their creditors & either make no payment at all or else such  
trifles as an an insult on all jus-  
tice & commercial honesty. The practice of these depredators  
who buy foreign goods upon Credit & then sell them at vendue  
before prom-ise ought to be treated with the utmost severity  
& disapprobation because those who sell in this manner cannot  
honestly even expect to pay their debt, but merely to get  
money into their hands in order to trade in certificates  
or to convert it from their creditors by laying it out on lands  
whereby a fraudulent & villainous law are protected from  
the claims of foreign creditors. If such practices as  
these are not quickly stopped & publicly executed



trusting in a convenient Trade must become impracticable  
as there will be no possibility of resisting shameful & unbecoming  
usurpation  
still in legal ground Queen Elizabeth

What she could do one  
thing more than God Almighty & being assured what that was  
she suspected that she could establish the inequality by a law which  
indeed she could do with ease as the Privileges of Parliament  
& the liberties of the people of England were a man should  
in her reign but it is not to be supposed that such practices  
are confined to absolute sovereigns in the contrary we see daily  
that ignorant & unwise & mean spirited men when they find  
themselves by the folly of the people created with the capacity of  
legislation & possessed of absolute power are as ready to abuse  
it to the purposes of injustice as the most absolute sovereign  
that we read of in history The produce of lands is a  
continual & may be made to a certain degree an increasing  
supply but the profit of land depends entirely on its culti-  
vation & the sale of its produce for if land is either not cultivated  
or cannot be cultivated unless at an expense greater than its  
produce it is of no value at all if when it is cultivated its  
produce cannot be conveyed to a market or sold to advantage

it must be huffed instead of being profitable to the proprietor  
the business of speculating upon barren land or buying.

is only a species  
of gaming under the name of Trade & greatly hurtful to  
the settling of a new country because as the settler does not  
buy from the state but from the jobber he must come up  
with one job that he must either give up hope of settling

ad to himself or to the public for one generation at  
least on account of the exorbitant price that he engages to pay  
to the jobber now then may be properly called immoderate both  
in respect to the slender abilities of the settler & likewise in  
respect to the title of the jobber who has not been the benefi-  
ciary of the job & who has no relation to it whatsoever except that  
imaginary one which may be found by a rough draft up  
on paper or a little writing upon parchment but if bar-  
ren land were to be so

possessed if it was not settled in 3 years  
the interest of the jobber might in some measure be reconciled to  
the interest of the public as the jobber by this means would  
not have the settler entirely in his power but fearing his  
Patent should expire if no other settler offered he might be  
induced to accommodate the settler at a reasonable price



mode of transmuting & securing landed property might have  
easily been established in a new country especially after it has  
been emancipated from foreign jurisdiction

System of laws & a num-  
ber of such contrivances as might tend to the interest of the people who are  
in power but the acts of bad men sometimes at last prove hurtful  
even to themselves if the jobbers were stopped as they ought to be  
by law we mean by the execution of the law as such a law

be looked by their grants lying upon their hands or by the spirit of  
Emigration taking a different turn from what they expected or the spirit  
of a community of goods & an equality of property ought to stop them  
of all their acquisitions no man indeed ought to be hindered from  
purchasing as much land as he can pay for or as much as he  
can settle & possess for the benefit of the public but the waste  
lands of the State being a national use ought not to  
have been

who under the present wretched system enjoy almost all the profit  
arising from the sale of them but to be disposed of solely for the public  
benefit of the state the produce of mines or the importation of money  
may likewise be continual & metals may be used the staple ex-  
port of some countries accordingly Sweden possesses in a great  
degree by the export of Iron & copper & the Spanish Netherlands in  
Copper may be said to have gold & silver for their staple export

as the means of these metals though liable to decay & cap-  
like of being exhausted are notwithstanding still defended  
in such manner one after another in the countries where  
they are found that when one is exhausted another is immor-  
tally found

" Uno ab.

"

metallo

And altho the working of these mines by slaves is painful  
& expensive & tho 1/5 part of their produce which is paid to the King

of the mines the richness of the Oar in some of them & the  
discovery of mines of quicksilver in the same country enables  
the adventurers to continue the Trade & to make regular  
communications to Europe it may indeed be returned truly for-  
getting of the celebrated gold mines of Andalusia which were  
the Basis of the Tyrians Phoenicians & Carthaginians are  
now entirely lost but indeed it would be still more sur-  
prising if they had been found because in reality they have  
never been sought for The Spanish Court observes a better  
tract from which it is not to be moved

nevertheless

It would be dangerous for any other nation to adopt the  
same maxims not having the same resources now al-



though

United States it is by no means certain that they are without them but if natural philosophy & chemistry were carefully cultivated among us & if the land were in the hands of enlightened & industrious proprietors it is, undoubtedly of far more value both to the public & to the farmer than it is at present if the Indian when searching for cattle on the hill of Cotosi had not accidentally discovered the bed of silver ore that adhered to the turquoise he tore up it would have been an unsuccess whether Peru had contained any minerals on this country

perhaps & as there abounds in many places & as lead which always contains a small quantity of silver & said to have been discovered on some part of this State this country cannot be said to be destitute of mineral resources & how far or to what degree they are improvable can be known only by experienced nations who carry on any part of their internal trade by bills of credit and proportionally less supplies of money the use of bills of credit in circulation tends to extend credit but this is either useful or pernicious according to the use that is made of it it is useful to an industrious & frugal people but it is pernicious to the indolent the

though Mr. Jeant-thrift

The use to be derived from circulating Bills depends on the Credit of the acceptors & credit depends solely on the confidence which the citizens have in the honesty of one another

well founded Bills of Credit may be paid to any extent that they are demanded because an Honest man will never borrow what he knows that he cannot pay many Branches of Trade & manufacture may be carried on by this means that cannot be undertaken otherwise but if the citizens have no confidence in the honesty of each other they must trust at an enormous expense or else on the expectation of recovering by law all paper circulation must be hurtful at first a time & on just a party because the consequence of it being paid must be a great certain loss to many poor innocent individuals. State paper money is a device

As this

has never yet been fortunate in this case the signer & acceptor of Bills are by no means on a level

for them & the State being Sovereign may either pay them or not as they choose & they cannot be sued at law though they should declare themselves bankrupt immediately after receiving



to a considerable degree by State paper money as finally  
it cannot be denied & it is impossible to oblige the State to  
make payment of them which cannot be denied likewise  
then it must be

State money any more Degradation of State Bills what  
ever colour may be put upon it is but another name for  
cheating & neither the person who writes on the degrada-  
tion nor the signature of the Bill which is supposed to degra-  
date can in the nature of things be honest men but  
the person who loses by it may be honest & generally  
is so because that Kinaves are commonly apprehended of  
the Schemes of one another & later can be sure them-  
selves in time if in some of the State Paper money paper  
equal to gold & silver it must certainly be a maxim  
in these States that both the State & private persons  
ought to pay their debt without chicanery shuffling or  
demonstration if any number of Citizens can have confidence  
in one another they may assist each other so far as that  
confidence extends but it must be entirely ruinous to ex-  
tend Credit to those who are not to be trusted in a State  
of this kind Credit can exist no longer because it must

always be in proportion to the belief that men have  
of the honesty of one another no artificial adequate  
remedy can be devised for a want of confidence because  
there cannot possibly be any substitute for honesty in  
the nature of things the ability of men to pay is  
found to be frequently at all a mortgage may  
be a full & unquestioned security in some cases & surely  
in this situation therefore being incapable of cure must  
ful the want of mutual confidence for some time  
& some men will suffer very great inconveniences unless  
they are convinced that honesty is the best Policy the  
expense of remitting money from one country to ano-  
ther  
must most money must pay this expense

So as to make good by it it does  
not follow from the state of exchange that a nation is either  
gainer or loser by it but money that is sent away to pay  
debt cannot be said to be sent for profit & therefore the ex-  
change in this case does not sustain a losing trade on the  
part of that nation which is obliged to remit the money dis-  
counting or discounting or will counterbalancing the current coin  
or high value in England but in this country on the



have a premium equal to the difference of its original value  
from that to which they sink it & a clipper of this kind  
may either obtain the same premium for as much more  
of the same money as he please or he may even raise his  
Premium by a further depreciation but if real money were  
brought to this account it would be totally unfit to be a sign  
of value some arbitrary Premium indeed when in great want  
have demonstrated the value of their coins by proclamation

for instance Lewis the 14<sup>th</sup> the late King of Prussia  
both had something of this kind but it was refused for  
the Congress of 13 put state to commit the most extensive  
fraud that is extant in the records of the rae-nummaria  
Extremes naturally run into one another & liberty has its  
Paradoxes & its tyranny as well as despotism

of these men  
who abuse its name yet the Bills of private persons who  
are honest will continue to pass even amidst the wraths of  
public & private credit & great prices.

neither foreign nor domestic Trade can flourish where credit  
is extinct & men can have no confidence in each other  
such a case indeed has seldom or never occurred in the

history of mankind so that it is impossible to say  
with certainty how many will it may certainly is in part

Lecture 70<sup>th</sup> April the 11<sup>th</sup> 1799.

The effects of Trade on either mutual or parti-  
mutual in so far as commerce accommodates all parties with what  
they want in exchange for what they can spare & enables every party  
to improve his peculiar materials & to pursue his peculiar art &  
likewise procures to the merchant & carrier an adequate reward  
for their trouble commerce considers all mankind as one family & all  
the world as that estate & inheritance so that it creates in  
every country where it prevails the advantage & commodities  
of every country on the globe whenever any thing is produced  
in abundance commerce conveys it when it is needed & whenever  
any thing is wanting it can supply it by connecting different  
nations in interest it unites the distant Parts of human  
Society & has contributed much to the diffusion of Knowledge  
& of the Arts of civilization By discovering the mutual inter-  
ests of men it reconciles the selfish & social affections & engages  
men to do good to one another even when they seek only  
their own profit The dangers & tediousness attending long  
antient navigation & the rarity of correspondence by Sea  
rendered the profits of Trade very great in early ages & the



Tyrram who won the first navigation by buying their own  
ports monopolized to themselves the commerce of Tiro from  
the Sicily Islands

as well as the rest  
men of Andalusia The Carthaginians who were a Colony of  
Tyrras followed the coast of this Country men & became  
the first trading nation in the world after the destruction of  
Tyre by Alexander the Argonautic expeditions

to have been a real  
transaction though the true nature of it is much obscured by fa-  
ble some are of opinion that the Golden fleece was only a mystical  
hunt & means a receipt for making Gold others again imagine  
that it meant only an excellent breed of sheep which the Argonauts  
wanted to grow in those countries it to have been a method of gather-  
ing gold dust which Colchians

of the Phaeacian Phaeac before the great  
raids which were afterwards taken out from the of Gold by  
the numerous Particulars of that metal which adorned them  
The Bulls which had brazen hoofs & which breathed fire from their  
nostrils as likewise the wonderful Dragon appear to have been  
men created by the expensiveness of the manifest Pinch & terror  
of that expedition as the like fabulous circumstances which are  
repeated concerning the Gods of the Hesiodic expressed allegori-  
cally the great difficulties attending the Navigation to the  
western coast of Africa It is probable that the ancient  
Grecians & Merchants invented & found these frightful



Stories both from a view of exalting their own prowess & their  
wish for deterring others from dividing their profit by following  
their Trail after the Early navigators had vanquished their first  
terrors & were able to perform the dreadful operation of doubling  
a headland or crossing a Bay they became gradually more expert  
& adventurous though they did not boast of their courage so much  
as they did at first the knowledge of letters & arts was  
communicated by the means of Commerce to all the Nations  
that border on the Mediterranean Sea The red sea was likewise  
navigated on very early times & the expedition of the Fleet of  
Solomon & long afterwards that of Hambrogh seemed to con-  
firm the ancient Eastern tradition that the Isle of Seilon was  
full of Gold mines tho' others believe Sumatra to have been  
the real —

Nations that was joined by the first navigators could  
never do warlike expeditions & was as well as commerce has con-  
tributed much to civilize mankind Barbarous nations could not  
at first comprehend the profits of commerce & that they chiefly  
gained by it was knowledge the Ship the Letter the Arms  
& the Arts of Strangers served to excite their jealousy &  
taught them by degree to improve the advantages of their  
respective countries In modern times Trade has been  
frequently connected with conquest & gives on now



much more jealous of advantage in Trade than they  
were formerly of Honor

Instead  
of civilizing Barbarians by conquest or emulation of the  
Antients the moderns have generally endeavored to  
exterminate or enslave them their appearance to a sort  
of grandeur in all the undertakings & even in the  
very view of the Antients

contemptible in comparison with

they "Terra male hominum nunc generat alique populos."  
The Antients

of soul to defend to the minutiae &  
means of the Slave Trade which is now almost monopolized  
by a nation which boasts with some justice of being the freest  
nation in the world It would be hard to discover a nation  
among the Antients barbarous & mean enough to have been  
guilty of such

Mexico & Peru perhaps some of the inhabitants of  
these States may in future become as the instruments of  
Providence destined to avenge the massacre of the Mexicans &  
Peruvians upon the defendants of their murderers

near 200 years

A commerce which is mutually beneficial that party gains  
most who receives the most useful commodity or who receives the  
produce of much land & time & labour in exchange for the

produce of life & who in conducting his Trade is employ-  
ed in the most healthful & least corrupting occupations  
In many cases it is hard to say which nation gains most  
by a mutual Trade This indeed has such a tendency to  
enrich both Parties that Grotius is of opinion that a refusal  
of Trade is a just cause of war with any Nation as  
standing directly in the way of the improvement & enter-  
prise of mankind but these objections may be said to  
gain most who are not enervated & corrupted by the  
articles which they import the importation of Gold &  
Silver has degraded the strength & Nation of their An-  
cient valour & activity to a very great degree into reeling  
or potent liquors an luxury a source of Trade that  
is not to be courted & those nations who sell useful articles  
to the Europeans in exchange for Tobacco

the Peacocks

supposed not without great reason to have contributed to  
enervate the nations of Europe & to have occasioned all  
those Tribes of various disorders that were utterly unknown  
to the Ancients the Venereal Disease which the Spa-  
niards imported into Europe from the West Indies was the  
most unfortunate return of commerce that we any  
where read of & has now spread itself with the virus of  
men into almost every part of the known world



have found it among the savage tribes the small pox  
was likewise an unfortunate importation occasioned by com-  
merce but authors are much divided as to the place of its  
origin some affirming that it came from africa & others from  
arabia the Plague likewise has been an article of commerce  
& by the laws of all the Trading nations in the mediterranean  
all ships from the Levant are bound to ride Quarantaine to  
prevent the importation of that contagious & incommodity but  
the virus of Europe which have taken root in asia & America  
may be said to be the most unprofitable of all the effects of  
commerce the first settlement of this Country was begun partly  
with a view to commerce & partly for the propagation of the  
Christian religion but neither of these ends appears to have been  
much attended to although Pope Alexander the 6<sup>th</sup> by a  
Solemn

Contention to the crown of Spain upon condition  
of their propagating the X<sup>th</sup> faith  
this way than any others especially  
since include the labours of the Jesuits finding valuable medicines  
which are produced in the East-Indies are the only useful article which  
the Europeans have to compensate for the mantles, Quagars & Vellos  
which are imported from the same Country with regard to some  
particular countries it has been considered as a Problem whether

they have gained on left by becoming acquainted with  
commerce ~~strongly~~ strongly in the negative. The same may be  
said with full certainty of the inhabitants of Africa & India  
to say nothing of the Mexicans & Peruvians. The profit of Trade  
is said to be partial when things of value are exchanged for  
things of no value as in several of the instances already men-  
tioned. The following are the general laws of commerce which  
are founded on the preceding considerations. First that where  
profits are mutual commerce ought not to be restrained  
by either Party. The Princes of this world ~~from~~ intend to con-  
derecommerce as a  
force to restrain it at their plea-  
sure

Thus West India Islands in order to confine the profits of that  
Trade to their own subjects & charge from an apprehension  
that the spirit of revolt might be kindled in the Islands  
by the conversation of an independent people who were  
once on the same condition as themselves which might  
be very hazardous in case of any future war with France or  
Spain since conquest & dominion have been so



left by nature has been greatly restrained by the jealousy  
of Nations it was the jealousy & selfishness of the Dutch that  
shut the Navigation of the Scheldt

James treaty of Munster. In like man-  
ner the jealousy of the Burgers of Danzig as  
of the Vistula to the subjects of  
Prussia & the same base principle has moved the Court of  
Spain to shut the Mississippi against the inhabitants of  
these States. The prohibition of many French articles in England  
& almost of all the manufactures of England in France arise  
from a like principle which now seems to be overcome in a  
great measure by the liberal spirit of the two Nations at  
present common depends entirely upon treaties which are  
dictated by views of personal interest & explained & executed  
according to the pleasure of that Party which has the great  
of power. The Law of Trade is that if it terminates in  
giving away the means of accommodation & self sustenance  
in exchange for mere ornament & A may lawfully refrain  
ed by the losing party. But the laws of Trade in our terms  
have become greatly subject to those of Policy Nations have  
considered  
of a Trade & in all their laws & regulations of  
Trade have shown a much greater anxiety for preserving

The dominion of their Colonies than for promoting the in-  
terest of their subjects. The most common

a duty as equal to a prohibition but  
either this or a positive interdiction may be easily got  
over by those who enter on a contraband trade & who  
depend only upon the indulgence of the subjects to the  
authorities they respect. The 3<sup>d</sup> law is that monopo-  
lies are pernicious to commerce & injurious with respect to  
the great interest of mankind but this too has been  
much altered & often departed from by the policy of Prince

Queen Elizabeth

company <sup>only for</sup> a limited time as monopolies were

that Company have enabled  
them to find means for continuing their Charles doesn't  
the present times. The French & Dutch have adopted  
the same policy & an opinion has been prevailed among  
States men that a trade to very distant countries was  
better in the hands of exclusive companies than of private per-  
sons. The English & Dutch East India companies have  
now become great Asiatic powers though situated in  
their own country & their government live with the splendor  
of Eastern princes  
by means of the growing influence of them in  
that country has now rendered it probable that these



period lose all their possessions in Asia Monopolies within  
a Nation are still more pernicious than monopolies of foreign  
Commodities. The unfortunate King Charles the 1<sup>st</sup> was very  
fond of monopolies at least of the money that he got from the  
purchase of them & that almost every article of life was mo-  
nopolized in his time

are all the internal monopolies that are  
now permitted in England. The practice of speculation or mer-  
chantile gaming which seems to engross particular articles has  
not only introduced the pernicious trade in stocks but even many  
necessaries of life have been reduced to a monopoly  
by the secret practice of a few merchants who proposed to  
make a sudden fortune by a great rise in the price.

Lecture 7<sup>th</sup> April the 14<sup>th</sup>. 1709—

The 4<sup>th</sup> Law of Commerce is that the state of  
a nations wealth

is not to be measured by the quantity of its silver or gold at any particular  
time but from the fertility of its lands & from the number of people  
by industry & skill of its inhabitants accumulation or increase  
of property is the object of industry & commerce. In ancient times  
whether from greater fertility or from higher profits of Trade

or perhaps from a neglect of the practice of putting out mo-  
ney to content both state & private persons & for deposited  
considerable treasures or hoards of money or other precious  
commodities which were reserved as the source of great im-  
mergencies & ornaments of elevated rank. Such state pomp  
triumphant & habitations were likewise used for the same pur-  
pose by the constitution & establishment of most Nations pub-  
lic treasures were deemed necessary for furnishing the ex-  
pense of sudden wars but these being abused or squandered  
by without a proper regard to the best of the public & the  
taste for extravagance daily increasing treasures have  
been found to be unattainable as well as unnecessary & un-  
profitable. Julius Caesar robbed the public treasure that was  
kept in the temple of Jove & set up notwithstanding  
some zealous opposers of this right & abuses of the people  
who not only believed him & continued him in his com-  
mand contrary to the constitution of the laws of Rome  
but also assisted him in destroying the freedom of his  
country. The treasure that was amassed by the crown  
of England from the suppression of a <sup>war</sup> were all  
squandered in a little time & England has had no  
treasure since except in name but since the restoration



in 1600 a public measure of a quasi prophetic kind has  
been established in England we mean a measure of public  
debt which however the government have found means of  
softened by the credulity of the people to pass in circulation  
at such rates as the

The transfer or variation of these imaginary sums might  
real money has been left & gained by stockholders. The  
example of England has been followed by the republic of  
Holland as well as by France & the United States with  
what success time will show the English connived  
at the alienation of the royal Domains for the purpose  
in order to make their finances dependant on the Parliament  
even for their subsistence & to render frequent Parliaments  
necessary lest neither they nor their Rulers before King  
William seem to have understood that the most effectual  
way of governing England was by  
& not by discouraging the meeting of these assemblies as  
the genius of the house of Stuart uniformly did. Treasurers  
have been thought useful by some Politicians but rather  
than their opinion be well founded or not debts are certainly  
an unprofitable war when transformed into circulating coin  
a Public gaming Hall kept by a nation must tend to  
corrupt the morals of the subjects & occasion pride &



Bankruptcies as well as encourage luxury & discourage  
industry when a nation comes out of debt we may begin  
to compute its riches; but till its debt is paid it cannot  
be truly said to have any The same observation is like-  
wise applicable to private men what was apparent they  
assume & in what is luxury they live till their debts  
are paid they are worth nothing The indefinite transfer  
of public debt is an invention of modern times but  
does not promise much advantage to the public & is  
constantly expending such a compass for future may  
perhaps for present times as no man can form an  
adequate notion of for as soon as the bubble of public  
credit shall burst which it may do at any time by  
the mere breath of the people & when it shall appear  
that a nation is impotent Multitude must come to  
beggary from a state of great affluence & the loss  
sustained by such a convulsion would be far more  
deadly & general than the most destructive & suc-  
cessful war The only defence which these nations which  
are indebted have against such a convulsion is merely  
a faint hope that it will not happen in their time  
to sometimes or other however it must be suffered &



It is great cruelty & want of kindness to positively  
to be providing such a fatal portion for them. To be  
out of debt is the foundation of all public & private pro-  
perty & to talk of wealth before that is talking only  
of what belongs to others although a nation therefore have  
no hoards of coin or valuable property either in the hands  
of the public or of private persons yet its lands are well  
cultivated & its people industrious increasing & well employ-  
ed in the practice of the useful arts & free from domestic  
or foreign debt it may be truly said to be free & tho  
not rich yet in a thriving condition because the property  
of such a society would soon increase. Public economy  
& national reform are not only necessary for the happi-  
ness of each individual but for the security & emolument  
of the Body Politic which must be kept in order &  
defended by a revenue arising out of private property. This  
constitutes the 3<sup>d</sup> part of public economy to the consideration  
of which we now proceed that part of the national wealth  
which is allotted for the purposes of the state is called  
the public revenue & this may arise from domains or  
unappropriated subjects or from taxes. The mode of sup-  
porting government by the product of lands was the only



success of revenue known in such age & was suited  
to that sudden exigence of the

and said to have adopted this method

In the division of lands they always reserved a  
portion for the public in every small district or Parish which  
incultivated for the benefit of the State by the labour of the  
district & the produce of which discharges all public expenses  
but the mode of supporting government by Taxes is better  
suited to the industry & skill of commercial Nations now  
It is not the interest of commercial nations that any  
subject should remain unappropriated because while  
it remains so it is commonly neglected & a step to the  
public accordingly the Royal Forests & chases in En-  
gland are mostly uncultivated yet the Royal tenants  
have made many farms & enclosures in sundry parts of them  
& these have been of late much increased for the purpose

of settling the land with the more profitable to the public if they  
were cultivated as private estates. The common or unappropriated  
portion of land used to be found till lately in every parish  
in England & were reserved as resources for the poor & helps  
to population & not for the support of government yet they pro-  
ved to be of very signal use to it for the villages that arose  
out of these commons the inhabitants of which were supported  
out of them produced a hardy people which multiplied again



• As chiefly to their exertions in agriculture, manufactures  
• Common that England is indebted for its wealth & great-  
ness many great trading towns have been so dependent  
of their villages while sundry ancient towns have decayed  
& come to nothing & take the English government have  
appropriated their common by dividing them among  
the rich proprietors of the lands or their neighbouring lords but

• destroyed one of its most important national re-  
sources Dr. Gotsfrink's deserted village

present age contains a pathetic  
commemoration of the duty neglected by this falling as ap-  
pear from the on face a few years ago I have counted  
in the works of the House of Commons for 1 day only draughts  
of Bills for the appropriation or division of 35 Commons  
in different parts of the Kingdom

And to reduce the num-  
bers & subsistence of the peasantry in England & consequently  
to lessen their manufactures, such & arrives the same ruinous  
policy has prevailed in Scotland though the poor were never  
so much corrupted by the common as they were in England  
as mankind in wide ages are greatly averse to labour &  
jealous of any way of acquiring property except by arms  
There have been generally odium at first & afterwards so  
many badges of Slavery shown in the judicial Kingdoms  
military fencers perpetuated the law of Vassals the vassals



armed themselves & served at their own expense com-  
monly from the time that their grain was sown to the ap-  
proach of harvest & this was all the subjection that  
they knew & all the tax that they paid or could pay their  
things like their Romans lived on their own lands  
Revenue arising from taxation may increase together with  
with the number the wealth & frugality of the people  
The increase of property by buying & selling puts it in the power  
of the subjects to pay a multiplicity of taxes on  
possessions

Just as lands cattle carriages & servants are certainly  
first necessary & for some time must be the only taxes  
that the people of a new country can pay unless they  
are engaged in commerce which will furnish an addi-  
tional resource but when their property is increased & they  
are able to buy foreign

necessaries in judging of the absolute  
or comparative expediency of different kinds of Taxes the  
following positions may be admitted as axioms The 1<sup>st</sup>  
that the Public exigencies of the state must be provided  
for at any hazard or expense to the subject This is the  
maxim of reason & of equity. "Salus populi suprema"



lex esto" The annals of

government • how ever ignorant men may denote it with  
the name of liberty is worthy of the most severe govern-  
ment at the very least such people ought to be deprived  
of the protection & invalidity of that state which they refuse  
to support those who are charged by the constitution with  
the care of the state must judge of its necessity what  
is necessary for its preservation ought to be raised  
by the unrelenting force of compulsory law but if the law  
is not strong enough to raise a revenue for its own support  
it must soon come to an end & all order & obedience  
must cease altogether methods of midwife patience  
have often times been carried too far & in the end must  
prove ruinous either to the persons intended to be  
benefited by them or to the state which must lose that  
revenue which has been rendered unattainable by

unmercenary Delay To men who refuse to do their  
duty or submit to the laws made by their own rep-  
resentation the flimsy operation of compulsory law  
is the only mode of reasoning that ought to be em-  
ployed 2<sup>dly</sup> It may be admitted as an axiom that  
in levying Taxes no subject should be unmercifully  
burdened as it is necessary that a Tax should be  
proportioned to the ~~the~~ <sup>the</sup> value of such articles as  
will certainly be used but the necessities of life & the  
last resources of the poor ought always to be kept un-  
touch'd & protected In Holland the very necessities  
of life are the subjects of Taxation but as these are  
nearly imported they are habitually considered as  
subjects of commerce & that requires such a species  
of Revenue which is not needed in any other Government  
The Duties Tax for consuming the

part of it has about  
1/4 part below the surface of the ocean equality & propor-  
tion should be sought for in all taxes though mathematical  
exactness is not attainable Exemptions from taxes have  
been often granted as favors by arbitrary princes either to  
corporations families or individuals but they are  
contrary to Equity men of property ought to be taxed in



1  
a difficulty ascertained In England & France the estates  
of the married men are altogether freed from taxation because  
they are inseparable & cannot be separately ascertained the mar-  
ried men only pay taxes on consumables together with  
others but in Holland were the creditors of the State are  
taxed in proportion to their claims because a debt of the  
public is a subject that can be ascertained & as it yields  
interest may be considered as a productive one The English  
have hitherto constantly refused to tax their public funds in  
order to allow foreigners to trust their money with them in  
preference to their nation. By another article is that the free-  
dom of the subject & that of his property & rights be not  
impaired taxes that impede them

& bar factories of our  
are immoral & infamous as well as impolitic as they  
tend to destroy mutual confidence & hold up perpetual  
temptations to villany & duplicity of the persons was  
the famous stamp act the act for extending the  
jurisdiction of the Admiralty Court in this Country  
the first of these multiplied all prisoners conveying arms &  
legal securities if they wanted the stamp presented &  
the last subjected men to be tried in one jurisdiction  
for a crime committed in another & even to be sent to



England Revenue laws ought never to encroach upon  
the security of the property of the subject nor on that  
of their persons. The Bill a receipt tax in England cer-  
tain too strong temptations to villainy & trampling on the  
just of these laws that no bill shall be payable or  
recoverable by a suit at law however justly due  
that has not paid the stamp tax & that lest that all  
monies actually paid may be demanded over again  
& made payable by law a second time unless the  
payer took a stamped receipt at the time of Payment  
when laws which ought to be the guardian of morals  
are rendered inimical to morality &

they certainly fall short of their  
end & become greatly hurtful to society. There must  
certainly be a great want of wisdom in the imposers  
& contrivers of taxes when they are not able to find any  
other means of rendering them productive except by  
depriving the confidence of human society & offering  
high premiums to those for depriving others a method  
must certainly be devised for levying every possible  
tax without multiplying hardship & injustice which  
are the most scandalous as well as the heaviest taxes



that can be laid on civil Society -

## Lecture

It may be admitted

of this kind it may be wished the laws of England for the support  
of the poor whereby every parishesman is obliged to pay a certain  
indulging may be avoided  
in eating & drinking

ing & at the same time  
endeavour to settle in their parishes lest they should become  
burden some to it or some parishes the overseers not worth house &  
let out

leave to the lowest officer that is to the person who shall un-  
dertake to support them upon the smallest sum this under-  
take in order to make his bargain beneficial to himself & to  
lessen the number of those whom he has promised to support sell out  
the young children as apprentices till they are 21 years of age

the workhouse so that he  
has very few remaining to maintain & the overseers who  
as well as the undertakers are generous by these doings squander their  
great collections in what are very properly called charity feasts  
It is somewhat surprising that all the regulations concerning the  
poor that are established in England have been indifferently

adopted into the law of this Country so that the overscore of  
Houseships

they do in England the law of Scotland imposes no tax for  
the maintenance of the poor but they are supported by voluntary  
contributions & charitable donations of private persons.

Orphan  
For having supported him in his infancy such support the law  
always supposes to have been given from charity & therefore  
no return or reward can be exacted for it. It likewise allows of  
for apprentices for  
more than 7 years although the poor laws in England are not  
intended for the support of government yet as they raise  
a revenue which is reckoned equal to 2,000,000 £ in their  
operation discourage settlement & industry by removing by  
some these persons who cannot find sale that they shall not  
be less than some for 3 years

at last being so sensible that they have  
lately made a law to prevent some of the vexatious removals  
of the poor that were occasioned

reform perhaps the custom as we know  
not whether it is a law that prohibits in this Country of in-  
denting servants from Europe for a number of years though  
not intended for the support of Government may be con-



second as an injudicious revenue law what tends by  
its operation to check the and et  
discourage popular to  
that justus & highly prejud to the little  
ment of the Crown as well as to the accommo  
eual emulment of the Citizens to oblige a poor  
enation to work hard for 5, 6, & sometimes 7 or more years  
in return for a passage that does not cost 6 pence & may  
wente had at the day in sundry Ports of Ireland for 4  
this operates for a duty or prohibition

Passengers & a duty of the most  
odious kind a duty upon liberty whereby they are trans-  
ferred by an involuntary contract after times to hard &  
inational masters can oblige to work for more than  
5 or 6 times the value of their passage merely because  
they were too poor to be able to pay at one time it is  
not to be wondered that the people of this country are  
so fearfully provided with servants & often obliged to put  
up with bad ones as by the oppressive custom or regulation  
they discourage all from coming that defense encouragement  
& most of these who come in this manner come with an express  
resolution of running away from their masters at the first op-  
portunity it was not permitted to transfer the service even



of a transported convict for more than 7 years but  
must be quite impetuous now that they are at liberty  
to make the same conditions or worse for innocent persons  
that were formerly thought hard enough for transported  
Criminals of a slave land in England from any part  
of the world whatever he becomes a freeman but when a  
freeman lands in America he immediately becomes a  
slave & often for more than 7 years merely because  
he was not provided of 4 or 5 guineas to pay his passage  
If people were capable of reflecting that population is  
of numerous they

do not condemn such a tax which is so inju-  
dicial to themselves & so unjust to a number of poor  
creatures whose only crime is the want of a little money  
& a desire of living in America & yet axiomatic with re-  
gard to taxes is that those which are least felt  
or grievances ought to be imposed. This observation  
must be variously applied at different times accord-  
ing to the nations where the people have of grievances because  
sometimes they may consider a tax as a grievance which  
is in fact much less so than another which they may pre-  
fer to it but a wise legislator will not follow their own ideas  
on this matter but let the people fairly have their choice



because if the Tax is actually paid to the public it is a circum-  
stance in its favor that it is paid willingly & not considered as  
a grievance. The late Lord Chatham lost the affections of the  
people in England by a new

National Beverage of the people the endeavor  
to him

The tax of servant  
The ship tax in England was likewise imposed as great  
grievance & alienated the affections of the people from the govern-  
ment. It may indeed sometimes happen that a legislature may  
have no choice in a matter of this kind as the people may some-  
times be disposed to consent to any tax however necessary & judi-  
cious as a grievance. But perhaps it is impossible to devise any  
tax at present in this country that wd not be unpopular. So  
that members of the Legif have become un-  
willing to assent to a tax  
which would be less merely for having consented to a tax  
perhaps in no respect more excusable than any other tax  
whatsoever but when a tax is once imposed it ought to be  
lived of. There was good reason for imposing it then must  
be the same reason for living it. even though the reasons  
for imposing had been of somewhat less weight than ought  
to have determined the legislature still it ought to be lived  
in order that the legislature may have it or that power  
to levy any other tax afterwards because of the people



one find it practicable to avoid the payment of one tax  
they will more submit to another & need only a demagogue  
to excite them to rebellion

scarcely any particular in which raw &  
ignorant legislators are apt to err more grossly than in  
matters of revenue not being possessed of that knowledge  
of human nature which is necessary to guide them in this  
matter when the power of raising revenue is gone all  
government is gone & whoever whatever power may be  
left to put upon the matter when all taxes come to be  
accounted quackeries none will be paid & although the power  
will then be in the people for want of revenue & order  
there will be no power capable of acting for the pub-  
lic good In speculation one would at first imagine  
that what are called excise or indirect taxes or duties  
imposed upon articles of foreign luxury would be the  
most popular of all others in a free country as well  
as most adapted to the genius of republican government  
as these are entirely optional taxes of which every man  
pays only as much or as little or he pleases & of which  
he may pay none at all if he pleases they not being  
the taxed articles yet we find to our great surprise that  
such taxes are by no means popular among us &  
have not been submitted to in any state except to a -



very small extent though no reason can be given why  
they should not rather be imposed than any others An Excise  
law has been passed in some of the States but it has been treat-  
ed with contempt & indeed unproductive so that the next  
law that shall be made ought to be entitled an exhortation  
to the people & it can have no farther force after some is fairly  
carried

of collecting them ought to be no less a multitude of  
persons employed in collecting a sum of money which in some  
times much less than is sufficient to pay them an allowance  
is a gross selfishness in legislation yet in many govern-  
ments

yearly salary for collecting a sum that was not even equal  
to the half of it & some who have had a deputy have not  
collected as much as paid even for his salary. The collectors of  
the revenues of France amount in all to 250,000 men &  
Dr Anderson has shown that in 6 Counties of Scotland where  
custom houses are established there is not as much revenue collect-  
ed as would be sufficient to pay the office

The Errors of other nations may be of excellent use to  
us if we are willing to make a proper use of them Queen  
Elizabeth was a very arbitrary Princess yet the whole a-  
mount of the customs of England in her reign was not equal  
to the sum that is annually paid for collecting them at present  
Taxes that are laid on luxury & may be collected by a few of-



person of all others the most judicious hence Mr. Decker

Domestic raise from the whole of  
these Dominions Supernumerary officers are to be avoided  
but in large governments some of these are necessary  
& experience has shown that stated officers are much  
better than occasional ones if collecting taxes is made  
an office of burden it must often fall in the way of  
protection upon men that are very unfit for it & often  
times upon such as are unfit to be trusted & National  
revenue runs too many uppur already of being a-  
voided or diminished without the legislators adding  
any more officers of this making the operation of  
a revenue law ought to be impartial certain quick  
& inflexible the method of farming articles of public  
revenue to private persons appears from the experience  
of these nations who have used it to be much more bur-  
densome to the people than that of revenue officers but  
in a new country where taxes are hard to collect &  
where officers are never mind actually responsible

if any person or number of persons could be found  
who were hardy enough to undertake it after the wis-  
dom of the State had taken in it one great convenience



any of this method if it could be put in practice  
be that the Farmers of the Revenue would always be  
made responsible whereas occasional collectors who are  
chosen by the people & consequently their favorites either  
cannot or will not be made responsible Taxes may  
be applied to a general head capitation a permanent  
customs charge Capitation is a Tax on the  
person

on the rest as the method has yet been  
devised of laying out on taxes of this kind in a just proportion  
in France the Tythe which is a capitation Tax falls  
upon the poorer sort only & on ancient Rome the poor  
men & poorer sort of Citizens were called capite pence for  
the same reason

but modern governments have never  
thought of this as even these capitation Taxes are not gene-  
ral & therefore cannot ascertain the number of the people  
an act was once proposed in the Assembly of the State for  
numbering the Citizens every 3 years

much useful in-  
formation both to the legislature & to the public we w<sup>d</sup>.  
then know with certainty how many members are sent  
to the legislature by districts that pay no taxes or.

next to none & likewise whether the number of the people  
is increasing

extended at the expense of the public as a re-  
ward for having refused to pay their taxes. How many people  
leave the state yearly or come into it a capitation tax  
among themselves. Is of  
the rest any thing in proportion to what they ought to pay  
for the support of government perhaps so. for this reason  
that capitation is wrong where an unpopular tax &  
has been commonly reckoned a symptom of despotism or  
oppressive government. It has nothing humiliating  
or oppressive in it. To pay for the preservation of our  
rights & safety is justly & reasonably even the poor  
pay equally with all the rest. The circumstance is so  
far

because this is a public document that the life & safe-  
ty of the poor is reckoned to be as important to the  
state as that of the rich. A capitation tax was raised  
in England in the reign of the late King William  
when the spirit of the Nation was at the highest  
but neither that nor the harsh money

never deficient in  
their zeal for liberty capitation taxes have been



frequently imposed since the reign of King William  
in England

Taxes were a proposal of numbering the people without imposing any tax at all. Some are of opinion that these proposals were overruled in order to conceal the decrease of the number of their people but only Dr Goldsmith has lately Dr Price is decidedly of the opinion from the calculations he has made of the amount of the house Tax though the Data in that case are not quite decisive but England has so many inhabitants that an not citizens that of a capitation tax were agreed to there it would be very necessary to distinguish the naturalized

had been so contrived as to distinguish them carefully into classes & question etc ascertain the precise numbers so distinguished in every township country & district it would have given much useful information & might have led to very considerable improvements in political as well as domestic Economy This Country is perhaps as improvable as any in the known world if the people were possessed of a little

more knowledge &

granted as many do among us that  
they were perfect from the beginning & that things  
could not be better ordered than they are at present It was  
a quite contrary course of acting that raised England  
to its present immense power by adopting whatever  
was salutary & profitable

by making  
comparative experiments & by profiting by their own  
errors as well as by those of other Nations that they  
attained to their present State we must not imagine  
that we have got every thing due as we have  
got liberty as this without property is the most  
mean

imagined but union honesty  
industry honesty & that wisdom which teaches to make  
a proper use of every thing are absolutely necessary &  
indispensable in order to render our liberty a real blessing  
to us.

Lecture 173<sup>d</sup>. April the 14

assessments is a Tax or Duties & is proportioned to  
the Estate assessed assessments may <sup>fall</sup> ~~afford~~ equally  
when property is very unequally distributed landed property being



most easily ascertained & valued is the most proper subject of  
a personal The property of land being supposed to be the most  
original as well as the most permanent & productive must  
have been the first duty of Taxation in all nations Taxes in  
kind the offer corpora or actual productions of the Land  
constituted the first taxes as well as the first rents being the  
only things in the power of the possessors In the feudal times  
the knights & even the armies of Princes were supported by  
contributions in kind justified by their subjects Land was  
taxed in proportion to its annual produce estimated in money  
what money must arise from its annual produce In England  
the Counties to the south of the Trent pay 4 shillings of Land  
tax out of every £. of yearly rent that is actually raised by  
the proprietors & when their rents increase their taxes increase in  
proportion but the Counties to the north of the Trent & almost all  
the Welsh counties pay 4 shillings in the Pound not according  
to the real rent but according to an assessment or valuation  
made in the reign of King Charles the 2<sup>d</sup> which circumstance  
renders their Land tax much more than that of the Southern  
Counties it has often been suggested in Parliament to equalize  
this Tax but it has hitherto been omitted as well on  
account of the disgust that it would occasion as from a  
notion that the Southern Counties are much richer.

the other which in many cases is far from being true in  
Scotland by the Articles of the Treaty of Union the whole  
land tax of that Kingdom must amount only to £10,000 ster-  
ling when England is taxed at 4<sup>d</sup> per £. in proportion  
where it is lower. & this sum thus ascertained is applied  
on the whole landed property of the Kingdom not accord-  
ing to the real rent but according to a valuation made in  
the reign of Charles the 2<sup>d</sup> which is said to be very unequal  
because at that time the owners being unacquainted with  
land tax many Proprietors of land out of mere vanity cut  
a view of appearing great men gave an estimate of the value of  
their Estate,  
were more wise estimated them at the real value which at that  
time was very small so that these proprietors of Land whose pre-  
decessors in the reign of Charles the 2<sup>d</sup> were wise men or who have  
bought Estates that were then in the opinion of wise people

that kind were vain men now pay dearly for  
their vanity they being loaded with more land tax than some  
of their neighbors that have 3 times their income & may  
be supposed to be had in a new country that Citizens  
should pay land tax in proportion to their improvements  
but this is utterly unreasonable & if the people continue a



as they have done hitherto or endeavours to oppose federal go-  
vernments without which the imposing of such taxes would  
be negatory & ineffectual thus our legislators must be obliged  
to

we mean of taxes of any kind shall continue to be paid  
The Romans in their Census calculated the whole property  
as well as the number & yearly revenue of their citizens &  
from this calculation & survey they ascertained their abi-  
lity of paying taxes & the famous survey of the lands of  
England made by William the Conqueror & commonly

country a measure of the land would be deemed not  
only inconvenient but impracticable & ruinous because the  
debt of each individual would thereby come to be discovered  
which to many of those that are engaged in trade might  
have very serious & disagreeable consequences but all wise  
the property may easily be made liable to assessment -  
Every coach or other carriage in G. Britain pays 30<sup>s</sup>  
annually for each wheel for the support of government & every  
horse pays one shilling of old duty besides 5 per cent of  
its yearly value a tax on windows in proportion to their num-  
ber the middle class of which is about 1 shilling each window

• the highest glass 20<sup>th</sup> sterling  
Stage coaches pay a penny  
for each mile & carriage that tra-  
vels for that an hired to ride post  
chaise pay a penny for each mile those who pay  
fare horses ought to pay them cheerfully when they con-  
sider the multitude of heavy burthens which other na-  
tions bear without repining

System of borrowing & spending  
but the condition of a people whose burdens are yearly in-  
creasing must come at last to be quite intolerable unless  
their ability to bear them could be made to increase in  
the same proportion which is utterly impossible The stock  
of the Merchant is continually fluctuating & any at-  
tempt made to ascertain the extent of it would only give  
inequality for frauds or improperly deplete the funds of Trade  
Hence in England a Merchant whose Estate is in goods Bills  
Ship Stock or annuities tho his fortune may be much  
greater than that of any landed man in his neighbour-  
hood

ascertained but by the Case of Scotland whereby a  
part of the Land tax is applied on the trading interest  
every merchant is obliged by Law to give in annually upon  
oath to officers appointed for that purpose not indeed the

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in order to ascertain his  
proportion of that Part of the Land Tax which is a burden  
on the trading interest. Whichever proposition is attempted or  
sought for Equitable regular Taxation prevail.

method of  
all taxes of what so ever kind should be cast into one &  
exacted at once. This indeed wd produce ease & lessen expense  
in collection but in order to ascertain the proportion of each  
I would be surer that the citizens should be divided  
into certain classes in imitation of the Romans. & that each  
individual should pay a determined sum according to the  
class to which he belonged but even in this manner some  
would pay much higher than others in proportion to their  
real ability. Though indeed this method might make  
men pay according to what they possessed how little  
for as they spent exceeding that their ability could be properly  
ascertained & might likewise induce vain men to contribute more  
to the public than otherwise they would have done by using  
their interest to be ranked in a higher class but this me-  
thod is by no means adapted to the circumstances of a  
republic in a new country  
of Persons generally odious. Cal

toms are taxes imposed on goods in common & advan-  
ced by the Merchant or Trader so as to form a share of nation-  
al wealth it would be contrary to Equity if it did not  
pay a proportional share of the public revenue & this  
can be ascertained only in two ways either by imposing a  
duty in proportion to the quantity or according to the price  
of the goods both these kinds of Taxation are indeed exposed  
to Frauds... Those duties imposed ad valorem appear to  
be most difficult to evade in all States of land in Holland  
the part of the revenue to the State & in sundry parts  
of Spain the alcavala or 25 per cent duty on all goods  
sold is still exacted Customs imposed on the necessities of  
life are a tax on the poor & have all the inconvenient  
effects that are commonly attributed to capitation -  
None of the necessities of life are taxed in Great Britain  
excepted Candle Sticks small soap & Beer from which  
however great sums are raised but these might be con-  
siderably reformed & made less or altogether less char-  
ging higher rates in proportion to the quantities of each of  
these articles consumed by each individual in the same  
manner as the taxes imposed on windows  
such as would not be burthen -



## Some to the Poor

may win with regard to ordinary articles those who use an extraordinary quantity ought on Equity to be taxed in proportion to the quantity which they consume. The luxury of the Table might be a very proper object of Taxation as the art of modern Cookery contributes in many cases to the dissipation of extraordinary quantities of articles of provision consequently to exhaust this price Mr. Wiffly computes that at a Lord Mayor

article of soup & Sauces and part of the flesh being dressed or eaten & a large Westphalia ham is often squeezed to threads & thrown to the dogs the expense of the juice of it only being used to furnish seasoning for a couple of Partridges

Denmark cost 60,000 £ sterling the none of the dishes of which it consisted were above six inches in Diameter &

expensive of life as well as other things, a tax in proportion to its exorbitance is certainly conformable to natural equity customs imposed on matters of ornament or cost by accommodation are a tax only on the extravagant & on the rich & such taxes are certainly most agreeable to humanity & justice Customs are an encumbrance on Trade & may amount to a prohibition of particular articles which are supposed to be

prudential but in sundry cases where no prohibition is even intended the

other with respect to Tobacco which before the late war could have been brought from the Planters at 3 pence sterling per  $\text{£}$ . pay a duty of 17 pence  $\frac{1}{2}$  per  $\text{£}$  on its entry into any custom house in Great Britain

offland, is sold at one shilling per Gallon but when entered in any custom house in England pays 6 shillings per Gallon of duty Customs

The consumer last being comprehended in the price of the commodity are not commonly felt as a tax as the merchants

have a profit on all his advances it follows that the carrier in the course of Trade that customs are paid for any commodity the burden they will fall at last upon the consumer as customs compromise every art

where they are levied is a peculiar & complicated study Mr. Crox's treaty on the

of the articles & has only a single line for each is a book that is much larger than Storks Cuckoo though it want all the additions that have been made to these duties for more than 30 years past

during the late war the great-



multiplicity of oaths that an  
incide upon by law at the entry of every article & thus  
expense ought to be considered as so much heavier that more  
than  $\frac{1}{2}$  of these oaths are commonly false ones a stiff &  
unaccommodating Policy resembling that of Spain her  
long

governments of England besides the multiplicity does not  
add one farthing to the revenue but has notwithstanding  
just as effect on the character of the people who are concern-  
ed in Trade as must make humanity shudder

c. 10. l. 11

the same mischievous & unaccommodating humor prevails  
in the annual Election of church wardens each of whom  
is obliged by law to buy a book of articles containing the duties  
of their office as they were supposed to be about a century  
ago & they are obliged to swear that they will faithfully  
observe all these articles. They swear in particular  
that they will present

that absent themselves from the church in  
order to their being duly  
Parson if he does not observe all

The Holidays conform to all the Ceremonies of the Book  
of common prayer

ever taken the least  
concern yet because the officer who sells the Book gets 20 Shillings  
for it & the officer who administers the oath 10 pence from  
each no less than 400,000 men are thus obliged by law to  
purchase them selves every year For a reason of equal weight they  
have uniformly refused to reform their prisons least it should  
tend to lessen the amount of the jailors fees the multipli-  
cation of oaths

is an immense hurt to morals without being of the least service  
to government Excise is a tax on commodities in use paid by  
the consumer the imposed at first on the maker or  
merchant producer or retailer The excise duty in its present  
form in England is the invention of Oliver Cromwell

Malt Beer Hops leather Soap candles  
wines &c a number of manufactures are subjected  
to the excise officers are appointed in every district to  
survey daily

Brewers Distillers Ironmongers Tanners & candle-  
makers to keep a strict account of all the goods which  
they severally manufacture or sell that the duty may be  
paid every quarter of late the excise has lately been



carriage. Excess may be removed a tax either on the rich or on the poor generally or on both proportionally. Excess of burden  
some to the consumer than Equivalent raised in customs but  
it is more likely to be felt as a grievance & to produce more  
animosity in the subject against the government than any  
other species of taxes as mankind are generally much influ-  
enced by whatever affects their senses.

unwelcome visits to the merchants distillers  
& manufacturers makes them feel their situation with regard to  
the custom complaints of it when the merchants hope the  
perhaps it collects much more duty is known only to the merchant  
& the shopkeeper & the goods which are charged with that duty

1724<sup>th</sup> year of this Century the punishment of tarring &  
feathering was first invented there & inflicted on some of the  
first

the proper for the citizens of a free republic is to study  
the amount of longer taxes in order that they may be free  
to tell how much of them they pay when they truly so-

regni commoditas

Consider by comparison of the laws of other countries what  
citizens ought to learn to be content.  
is to study by public & private economy to retrieve  
the credit of their country & to support the laws which  
are only designed for the administration of justice &  
the support of regular government

## Lecture 17

Lyth being a Source of Excess for the support of  
the ecclesiastics

in respect to its other circumstances  
it may appear to be one of the most popular or favorable kind as it  
has not been impugned within the memory of man nor affords what  
any man can call his property under the thin disguise of Judaism  
The 10<sup>th</sup> part of the produce

Christianity The Christian Emperors  
transferred the Lyth to the Christian instead of the Pagan Priest-  
hood & adopted the Jewish institutions concerning Lyth into the Code  
of their imperial laws now and is much more than 14,000 years  
since Lyth has been paid in Europe every acre of land in it



for these many centuries past nothing can be more evident  
than that no man whatsoever by the laws of these countries can  
call the tithes his property because he never purchased them  
& he is bound by the same laws by which he holds his lands  
to pay his tithes to those persons to whom the law directs  
to be paid so that it is evident that for more than 1400 years  
past no man in Europe could purchase any more than the  $\frac{1}{10}$   
of the produce as he had never paid for the remaining  $\frac{9}{10}$ .

inspired Tribes a great  
clamour was raised in England against tithes as if they were  
an imposition upon property

Properly, even of his most remote ancestors  
nor that he had ever bought them or consequently could have  
any right to give but when the plea of property was exploded  
it was extended to be inconvenient for the Clergy who received these  
tithes as well as for the proprietors of land &c.

Tax was proposed to be substituted instead  
of them. The present Lord Chamberlain of England lately pro-  
nounced a sentence which has been decisive on this head in  
a cause wherein a gentleman of fortune offered a certain  
quantity of land to the incumbent on lieu of the tithes of the  
improvement by declaring that by the law of England the tithes  
were incommutable & that as the gentleman in question in com-

men with every other British subject had purchased only  
 $\frac{9}{10}$ <sup>th</sup> of the produce he could pretend to have the smallest right  
in value of that

dispute has ceased & the by the clubs & committees are no  
more heard of in England tho a few ignorant people in Ireland  
who are incapable of understanding the rights which men have  
to their lands in Europe have raised sundry commotions on this  
head of late years

The Tax & the collection of it being annual & exacted  
the senses has contributed to make it unpopular with free  
personal men

of what was reserved by the public in the original  
distribution of lands properly & what consequently never belong  
ed nor could belong to any private man. In the terms of cop-  
pary no difficulty was owned concerning by this as it was  
clearly understood that they never were any man's property  
they were said cheaply & readily & the payers considered  
their paying of them as an act of religion or will as an act  
of justice & at the same time as an acknowledgment of  
what was undoubtedly true namely that they had purchased  
a right only to  $\frac{9}{10}$  of the produce of the land of their prop-  
erty & that they paid the remaining 10<sup>th</sup> where the



law had made it due The Spirit of Athism & freethinking which began about the time of the reformation

widened by the laws of all Europe but their inattention to this proceeded chiefly from their prejudice against the clergy whose lives in that age were not much more edifying than those of their adversaries

temporal Barons & the Bishops bestowed on certain Titulars with consent of Parli charge with the maintenance of the Clergy tho for some time they received nothing a third part of the former benefices in this arbitrary confusion of right was separated from the rest & this too was vested in Titulars

6 Charles the 1.<sup>st</sup> part of the Bishops was entrusted on the Churchmen but the Parliament having permitted private persons to purchase their Bishops from the Titulars at 5 year purchase many took advantage of this

as it was to the Bishops of their own lands now in their whole management we may trace the operation of that prejudice which men receive from their senses which is

after overcoming the clearest convictions of their  
reason by joining the grodium altogether the people con-  
sidered it to be all equally their own ~~own~~ though

this was not the case & that if it had  
been all their own they ought to have paid 10 per cent  
more for it to their landlords

backward to the Establishment of  
the christian religion but it was evident that no private  
man

could give of his family or their right to land or any thing  
whatsoever to so remote a period The same prejudice which  
calently showed itself in England continues to appear in  
any part of Ireland when the people look upon the tithes  
with an evil eye & consider the grodium as wholly their own  
though they by law that they never bought it is paid  
nothing for it but human nature is in every age subject to  
the same weakness & prejudice denuded from the sinfer  
may be said to be among the strongest of their minds  
superior in the southern Parts of Ireland

many people  
depended the protestants of the tithes or order to bestow  
it on the roman catholics who they believe have a divine



right  
except laws The dissenters in G. Britain & Ireland sup-  
port their Clergy by assessments which has nothing of  
the nature of exise they assess themselves in proportion  
to

their meetings & their several proportion are paid quietly  
& without murmuring for the support of their own clergy while  
the Ministry & dues of the established church are quitted or  
attempted to be withheld notwithstanding that the difference  
of these two cases is entirely

This circumstance that what the  
Dissenters paid to their ministers is legally their own property  
& what is paid to the church men is the property of the Clergy them-  
selves by the

or could acquiesce ought but prejudice <sup>was</sup> stronger in  
our sense of right so that in the first case those who gave away  
their own property do not complain & those who only give up  
the property of others to the legal owners complain as if some-  
thing were taken from them In the beginning of the 17th  
century of New England

but thought themselves  
of making a stated provision for their clergy by an assessment  
upon the Ministry in England & accordingly imposed  
upon every house lot or division of land a certain small

Sum which was to be appropriated to the maintenance  
of their Clergy how this plan became known we are not  
informed probably it was owing the spirit of infidelity

last year that bore the notion of a school & other properly  
which is unknown in Europe

provisions of a temporary kind  
for the support of Anglians have been made here & there  
according to the prejudice & desire of the people but how  
long or how short any of these may continue is impossible  
to consent to endue the Spirit of Collection & the Spirit  
of indifference have since been from the scandal of persecutions  
as well as from the fear of it will open themselves in  
fidelity should gain the ascendant which would produce  
a persecution against all who bear the Christian name  
from the present situation of opinion &

appears to be daily gaining ground &  
all the denominations of Christians diminishing in their  
numbers everywhere Mr. Adams appears to consider the  
passing of a law for the observance of the Christian Sabbath  
as one of the greatest follies that the people

not a little that all the  
American constitutions were formed without the smallest  
regard to God or religion nor if such opinion continue to



gradually withdrawn & as we have seen many Witches at  
just till, as these very men his are larger every man his

or his are rather we may fear for some  
his are eluge

man confessor in which the people may be taught that all  
religion is entirely superfluous & an encroachment upon liberty  
& that men may do whatever their passions may prompt them  
without fear of punishment here or hereafter

We now ground to the consideration

mentioned in our preceding speculation they have been  
considered only in respect to the history of their establishments  
or in respect to the foundations of civil rights or obligations  
they are diversified in sundry instances by special conven-  
tions which form the political civil law of the community  
but men have original rights & interests to guard in respect  
to which actual establishments & conventions may be sa-  
lutory or pernicious & give rise to a question which is now  
to be discussed namely, what is left for mankind in their  
political capacities? now in discussing  
principles or rules which

may be termed the positive law of nature. It is one thing to consider how the different simple or mixed forms of government actually arose or how far they are qualified to support themselves & it is another thing to investigate what men ought to do with respect to political institutions which properly renders this question a branch of moral philosophy.

having each of them their particular spirit & maxims lay what they support themselves & include others & their ends are likewise somewhat different now in our present enquiry we propose to investigate these maxims in which all governments ought to agree entirely abstracting from any particular form. In investigating the ends of government we will discover its necessity & usefulness to human society & in comparing different forms with each other their several excellencies & defects must arise only from their fitness or unfitness to promote the great & general end of government. It is ordinary however for many writers to mistake these means & institutions that were designed only for improving a particular form of government for the means of



principles or political law of nature we will then be able  
to discern what are the principles of each particular form  
& how far it is capable of contributing to the greatness of  
governments & society. It is a self evident proposition that  
Political institutions are only beneficial in proportion as  
they contribute to the safety & happiness of the people this  
principle therefore may be safely assumed as a just  
principle of

consider 1<sup>st</sup> who are the people 2<sup>d</sup> In what their safety  
consists & 3<sup>d</sup> In what their political happiness consists  
in forming the first governments of men it is probable that  
private interests may at first have been chiefly consulted  
& many subsequent institutions have been introduced

Govern-  
ment Thus E.G. In a state where by the monarchical  
system or Law the whole authority is supposed to be in one  
person &

high treason or conspiring against  
the whole community whose interests & authority are supposed  
by the constitution of the state to be concentrated in & represented  
by that one person

an act of Hostility whether kind  
desires any attempt to alter that form or change sup-  
posed to be a conspiracy against the whole body again  
in a commonwealth high treason consists in endeavoring to  
suppress the liberties or to pervert & take away the know-  
ledge of conspiracies & promote what are supposed to be  
injurious to the public good is the maintenance of the  
people's rights now as in ordinary cases

of government should  
be accomplished without bloodshed & confusion as  
the far greater part of men in every state are quite  
incapable of distinguishing between the form

who without  
the consent of the people endeavor to alter that form of  
government which is already established but in all  
forms it is always to be remembered that when ever the  
people are dissatisfied with their own particular form  
they may lawfully & safely lay it aside by common  
consent or by a majority

make such a change from convention &  
experience neither is it high treason to endeavor to persuade  
the people to make a change in their own form of



a voter to promote their particular views they could not have  
been accused of rebellion which means only the laying war a-  
gainst a particular government & endeavouring to change it by force  
without the consent of the people but while men obey the laws

to be bad subjects though they may see sundry things in  
the form of this our government which in their opinion re-  
quire amendment but if the contrary principle was

except a  
stupid blind bigot or the ignorant follower of a Demagogue  
who is charmed by the mere sound of a single word calls ad-  
herers to a form of government without knowing any reason  
for it No man capable of reflection all forms & constitutions  
of government must appear to be imperfect & they are incredi-  
ble of thinking or feeling otherwise whatever violence is  
used with them but they

government that exists by lawful  
force or against the will of the people though they may wish  
to win endeavour if they think it safe for them to persuade

the people to alter this

is only calculated for the interest of these  
Demagogues & for continuing them in the office of  
lucrative places at the expense of the public. The man  
that

attachment we will always  
feel in favor of any particular form of government as very  
little of the better happiness depends upon the form but the  
whole must always depend on the character of those that  
administer it so that even a very defective nay a very bad  
form of government may at certain times & in certain cir-  
cumstances serve the great end of government so well that  
it would be quite unnecessary & very of death to attempt to  
alter it by violence. The constitution of Holland for instance  
may be said to be superlatively bad & to deprive the people  
of almost the whole of their political rights yet what they  
are furnished with it & quiet under it so that it actually  
serves the great end of government among them it is  
utterly unlawful to disturb it & by means of a cautious

though perhaps the worst constitution of any in Europe or  
in the world has served the great end of govern-  
ment in that country



strong light the great  
importance of a vigorous administration a matter that  
is never mentioned or thought of by our modern political  
writers but when a government becomes inefficient &  
when its authority is at an

the end of a government  
it becomes a duty of Patriotism & obedience for every citizen  
to endeavour to bring it to any other form that might  
answer these great ends yet in such a manner as that  
nothing should ever be done by force but solely by  
the agreement & conviction of the people.

Lecture 175<sup>th</sup> April the

1709 -

At the Election of Magistrates who were still chosen by  
the people for some years he gave his vote in his own  
style as one of the people may he went thro the usual  
form of solicitation & begged the interests & votes of the  
people as candidate for the consular the Election being

shall suppose to proceed in their ancient & usual form the  
liberty & the republic were now no more & the constitution  
chosen by the people were more Regent & despotic of authori-  
ty & in which every thing of that kind being imposed by  
the Emperor yet even in the time of Augustus the com-  
mon people retained of liberty & the republic as if they had  
been still in existence & seemed not to know that they were  
slaves for this reason Machiavelli admits those who w-  
change the form of a government to retain all the old  
names after a form of speech to which the people were  
accustomed that they might not be sensible of the change perhaps  
it might have been partly for this reason that conquer-  
ing nations have generally thought it not to assume the  
manners & customs of the conquered in order to make them-  
selves sensible of having changed their master When Alex-  
ander had overcome Darius in the battle he immediately as-  
sumed the Persian habit & ceremony of the Kings of Persia & so  
could the new subjects obey him more cheerfully in that guise  
than they would have done many other when the Arabian Har-  
thas had conquered the Empire of China in the 144 year of the  
last Century they likewise immediately conformed their selves  
to the dress & customs of the Chinese which was the more  
necessary for people in those circumstances not only to avoid  
jealousy



giving offence to the conquered people but in order to conceal the  
smallness of their own number on the whole of them did not a-  
mount to <sup>1</sup>1000<sup>th</sup> part of the people whom they had conquered  
Institutions that are continued for preserving the form of a govern-  
ment & preventing alteration in it compose the political consti-  
tution but those that relate to the Rights & defenses of men  
compose its civil law now the first of these ~~namely~~

of a government will always be most regar-  
ded by the ignorant & the servile part of the Citizens & the  
last namely the civil law by those who are thoughtful & in-  
telligent The conventions that compose the political constitution  
of countries are necessary & important only in so far as  
they have any power or tendency to maintain the civil rights  
of men Under the denomination of the people we ought to  
conceive not any separate order or class of men but all the  
members of the community whether magistrates or subjects  
or in whatever way they are distinguished according to the  
custom or distribution of rank or distinction now the safety  
of the people consists in their secure enjoyment of their  
rights • the principle importance of particular forms of  
government consists only in that degree of security which  
they are supposed to give to the rights of the people  
now it is not enough to know that the persons & rights of  
men are actually safe for the time unless they be also



secured in such a manner that there is no probability  
generally speaking of their being violated & unless there  
is an official provision made that none shall violate  
them with impunity now in order that the rights of men  
may be always secure. It is necessary either that  
there should be no one to invade them or that there  
should be always ready power at hand sufficient to de-  
fend you. now the first of these is not to be expected in human  
affairs & to provide the second is the principal object of  
civil establishments. The civil laws of every consti-  
tution ought to define the rights of men which it pro-  
fesses to secure & to supply & provide official defence in  
case of their being attacked now the laws of every com-  
munity must afford a more or less security for the rights  
of the people in proportion to the strength & vigor that  
the government possesses. If that laws are respected & ex-  
ecuted none will dare to violate the rights of another  
but if the laws are public contemptible or the adminis-  
tration ignorant or incapable & if the constitution or po-  
litical establishment has provided no official means for  
carrying the laws into execution then the rights of man  
must be said to have no defence at all in that  
community & all the members of it may be said to  
be in a more state of nature but as the animal Body



power even when the power is imper-  
sonal of governments are really extent as it may hap-  
pen that for some time the habits of society may persist  
in some to a little manner even when government is no more  
but such a society being totally without union & defense the  
smallest confederacy may absolutely destroy it & quite  
overturn the rights of property & all its other rights when  
ever the law that ought to defend them has ceased to  
have any vigor. It has sometimes been the object & the  
good fortune of some communities to refuse members of  
such character as that they ought safely be entrusted  
with any degree of power but it has been the object of  
the greatest number of communities to grant only such  
powers to their governors as might be safely entrusted to  
any sort of men. The extremes of confusion & despotism are  
acknowledged on all hands to be equally absurd & ruin-  
ous & to lead to the opposite extremes of Anarchy & Despotism.  
If we trust government with all our rights we are slaves  
& have no rights remaining in our own persons on the other  
hand if we will trust no body we must remain in a state  
of nature & every one must shift for himself as well  
as he can now in order to avoid this last extreme as



well as the first the most of free nations have endeavored to limit the powers of those whom they trusted if they might not have it in their power to abuse their trust that to trust only such powers to governors as might be safely entrusted with any sort of men is a vicious extreme as well as that of trusting everything as nothing at all. Wisdom will demand any Society that is disposed of it to entrust as much power to those whom they choose for their governor as an necessary to secure effectually all their rights & to execute with effect the great purposes of government but on the mean time the person whom they trust ought to be limited with laws & conditions & to be made responsible for the management of their trust. In choosing their person whom a Society is to trust as much regard ought to be paid to virtue as if the person that were to be chosen were to be trusted with every thing & when they are chosen & trusted their power ought to be as clearly defined & limited by laws & their person made as responsible as if they had no confidence in their virtue. The several cases above supposed may be entitled the government of innocence & of law under the supposed government of innocence & virtue matters of form an equity & justice but under the government of law it is necessary



that the rights & obligations of men should be clearly expressed & then indeed either by conventional or stated law but tyrannical governments have generally arisen from extraordinary confidence upon a people who had such an esteem for a particular person as to dare to trust themselves entirely to his discretion or when being brought by force under his dominion they have been obliged to make a show at least of trusting with all their rights the cautions & limitations of trust in free government have originated from experience & a sense of the bad consequences of immoderate.

each society has shown to guard against those evils that they themselves had experienced or which they most dreaded though in guarding against one sort of evils they have often introduced sundry others no less pernicious It is not possible indeed that the rights & defenses of men should be so definitely expressed by the laws as to make certain & upright men unnecessary in those persons who are to be charged with the execution of them hence all governments flourish or decay become reputable or contemptible precisely according to the character of the persons who are entrusted with the management of them Equal laws & a free constitution are no doubt valuable & defensible things but if the management is committed to ignorant corrupt or worthless men it will be of no advantage to the members of society that their form of government is

face to be a good one

of the public are in ignorant & improper hands. In every convention the consent of Parties is supposed to be given either in person or by others properly authorized all men in many cases must necessarily often act by others & this is always necessary the case with great Bodies or numerous societies of men as they cannot themselves meet or continue together for a sufficient time to manage their common concern they must therefore intrust these with representation duly elected & authorized to act in their name Election points out the person to whose judgment & management the society entrust their rights & whom they commission to act in their name Dr. Adams apparently to mistake the nature & end of representation when he makes it merely a mean of disseminating the

a trust & not merely a message  
The people by their Election empower their representatives to consult with & determine for them according to the best of his judgment in which by their Election they have placed confidence & they are bound by their own Election to abide by the consequences of his actions as they have legally constituted him in their place but according to Dr. Adams opinion if the majority of a man's constituents were either fools or traitors or otherwise ill affected to the communi-



in order that in his public capacity  
he might express only the sense or non sense of his con-  
science without making use in the least of his own  
judgment such language has often been used in En-  
gland by the Hallersers of the People who intended to  
sell them & their rights as soon as they had obtained

manner & did not debase himself to take so for sake of a  
seat in any assembly upon earth he cannot act contrary  
to his judgment nor sacrifice the honor of the laws & the rights  
of mankind to the folly of a multitude & as he is incapable  
of doing so he is no less incapable of promising to  
do so. It often happens indeed that a supple & insincere  
do not in the least mind what he says will readily com-  
pliment the people with his understanding & conscience  
which to be sure is no great compliment of their own for  
if a people be possessed of discernment they will easily  
see that a person who professes to have

use of it must be a  
competent person to judge for them the constitution of this  
State in words at least holds up a quite different no-  
tion by insinuating that the persons who are to be chosen  
shall be the most noted & eminent for wisdom & virtue

now wisdom & virtue would be quite superfluous to a  
person who has no judgment of his own but who is only  
like a wind instrument to emit such sounds as might  
be blown into him by the breath of the multitude - by  
means of suggestion a society may sometimes choose

might be of great advantage to them & certainly if we were  
choosing a lawyer or a physician we would surely wish  
that they were as much wiser than ourselves as might be  
& that they might be capable of acting for us much  
better than we could act for ourselves by our own shall  
but according

neither to be one who wishes  
nor more selfish than his constituents otherwise he betrays his  
trust & forfeits his  
as sovereign in a state is authorized to make laws & these  
may relate either to the political constitution or the means of  
improving & supporting it or to civil rights or to crimes  
now although by the nature of a republic the sovereign pow-  
er is conceded to be in the the people at large

supposition  
that the whole power is in one person or the whole wis-  
dom of the state in one assembly the people cannot  
except that power they themselves what by the re-



Nullification

to others by whom it may be exercised in the way of legislation & taxation & when the people have once delegated their power it remains no longer in them but immediately reposes with the representatives whom they have elected. Every thing however absurd that flatters the conceits of the people is often held to be law & good sense in a republic in the same manner as the most flimsy flattery & meanness is rewarded only loyalty in the court of a monarch.

of a free people than just a little conceit which is often suggested to them by their flatterers namely that the sovereign power remains in you even after they have given it away in the most solemn manner This renders the

a man force because the legislation has no power at all if all power whatsoever be declared to be in the people. The abolition in Massachusetts so far as the people concerned in it were capable of thinking in any shape may very probably have arisen from licentious notions of this kind they may have been told by their Demagogues

their representatives have not acted according to their  
sense thinking the people & people of Sovereign  
nations will as wisdom

to inculcate such doctrines on the  
ignorant & unthinking part of mankind as to tempt them  
in consequence

conscience because any one of the people if they are  
may lawfully con-  
troul those who are not the Sovereigns & who consequently  
have no power at all there cannot be two sovereigns gov-  
ern in a state at once

as it really is on the day of Election  
there is no Legislature to represent the sovereignty of the  
people they are already <sup>lost the first mo-</sup>  
ment after the

to come because all the power that was  
formerly in them is now by their own free & deliberate act  
transferred to their representatives. It is excluding disa-  
qually no doubt

along with them & which indeed are as  
certain & evident as any thing in mathematics but in  
the present times when ignorant & untaught & artful  
Demagogues are flattering the people to incourage them  
to rebellion & exhorting them to oppose & resist that



learning & sense gives an indirect approbation  
of such seditious doctrines it becomes a necessity to put  
sensible people upon their guard that they may not learn their  
political notions from an unthinking mob or from some seditious  
old women but that they may learn to judge for  
themselves & to distinguish the maxims of reason & wisdom  
from the ravings of ~~some~~ blind enthusiasm & the inspi-  
rations of rebellion & ~~anarchy~~ anarchy under the  
false pretence of public liberty —

A True Constitution is when the people have the election of their  
Legislators & governors this is the highest conceivable degree of liberty  
& a people who are subject only to laws made by their own representa-  
tives  
that suffer as their condition is the object of the envy of all the Nations  
of the Earth but wicked & designing Demagogues will tell the people  
that they are not free unless they have an arbitrary & perpetual  
negative upon all the laws that are made on their representation  
which is  
contrary to all forms of government whatever republican or well  
as monarchical The error of resisting justice or destroying  
a Society

is not liberty nor even licentiousness but it is plain robbery or  
rather rebellion against all government. There can be no right  
in any man to do that which is wrong if men want to indulge  
their vicious passions to take away the property of their neighbours  
& stop the course of justice they ought not to call this by the  
name of liberty though their Demagogues will tell them that  
this alone is genuine liberty but it is the object of all laws in  
the world to destroy all liberty of this kind because the law is  
intended merely to check the vicious inclination of men  
invaded by one another. The

respect laws relating to the Constitution are such as confer on  
the Magistrate sufficient power to restrain & to defend the  
community under such limitations as are judged sufficient to pre-  
vent the extravagant abuse of this power. The Magistrate or Judge  
by acting for the community has a right to this assistance in  
the execution of his office as he exercises his powers in defense of their  
rights & punishing those who attack him but when the people are  
taught by their Demagogues that their liberty consists in resisting the  
magistrate when doing his duty in hindering the course of justice  
& the punishment of offenders they thereby destroy the defence of  
their own rights & act as irrationally as a man wd. do who would  
burn his own house or slay his wife & children to show his liberty  
the power of the Magistrate is the power of the state & the power of  
the law & therefore every man ought to strengthen & support it



as much as possible because it is the arm of justice stretched out  
to protect the weak & innocent against the sudden & unjust force of a  
word of the magistrate has no power the law has no power &

impunity over all the  
property & rights of community No choice of magistrates who are either  
incapable or afraid or unwilling to act as an insult upon govern-  
ment & displays a hatred of justice & good order What sort of Magistrates  
would thieves Highwaymen Householders &

community? or what Magis-  
trates would such people elect if they had the election of their jury  
they would elect none at all or such as should be equal to  
none on account of their incapacity or inactivity yet the most  
popular mode of electing magistrates that is taught by mo-  
dern Demagogues tends to reduce things to the very same situa-  
tion as if criminals were the sole electors of the magistrates  
because when it is laid down as a maxim that a person cho-  
sen

is termed or insignificant in order that the people may have no-  
thing to dread from his power this is making the worst possible  
use of the power of election & rendering the office of the magistracy  
contemptible as well as useless on the contrary every good  
citizen ought to endeavor to make the magistracy office  
respectable by choosing men of the best characters

in the discharge of his duty this tends to strengthen the laws & to in-  
crease the degrees of every mans right In the rude and ig-  
norant ages of the world men commonly chose to worship wood  
or gods because they could do with them as they pleased &  
had no vengeance to dread from them the same is the case with

Magistrates from whom nothing can be feared & under whom  
they may live in the very same manner as if there were no ma-  
gistrate or laws whatever in the society & thus these Demagogues  
tell them in the highest wisdom & the great Bulwark of their  
liberties but suppose any of these wise rulers were to receive any  
injury in his person or property

or protection? can he apply to any effort

an effort of  
redress? no: even the most worthless & foolish person has a  
lively sense of injustice & would then desire that his right  
should be defended & his wrong avenged no magistrate can  
have it in his power to do any good unless he is entrusted  
with a degree of power that would likewise enable him to  
do great harm as power is a two-edged tool that may be  
turned either this or that way according to the disposition of  
two ways of  
preventing the abuse of power in governors namely either



by delegating so little power to them & surrounding them with  
such a number of checks or that they can neither do good  
nor harm or by delegating a sufficient power & committing  
it to a person of virtue & uprightness whose character would  
render him incapable of abusing it

has never  
been the popular one & Demagogues have uniformly mutilated  
the doctrine of delegating little or no power on pretence of fear  
least it should be abused but truly with an intention that  
it should never be used at all we have for that crippling  
the power of the magistracy & only destroying Society & tying  
the hands that should fight for us when our lives are attacked  
but every thing to be given up to the definition of the magis-  
trate by no means but the true remedy against abuse of pow-  
er is to delegate a sufficient quantity of it for attaining the end  
of government & to commit it to men of virtue & moral  
principles who will do no wrong for their own sake & who  
love & respect the right of mankind No attain so valuable  
a blessing

undoubtedly ought to be incurred but this is almost  
totally removed by choosing virtuous men if that custom  
which is so hateful to Demagogues could once be got intro-  
duced Demagogues uniformly teach that all men are

Shame because they know themselves to be such  
that there  
can be virtue in another but to place their whole security  
in choosing vicious men but giving them no power to hurt  
them but if it should be said that even virtuous men  
are apt to be corrupted by the possession of power surely  
the limitations of time & the responsibility of every magis-  
trate for his conduct are sufficient securities against anything  
of that kind but if it be true that virtuous men are apt  
to be corrupted by being in possession of power even for a time  
this objection must militate much more strongly against  
the choosing of virtuous & uncorrupted men who are corrupted  
already & who certainly must be much more disposed  
to do

The most perfect laws relating to civil right are such as  
secure every person in his state. The great object of laws is to  
keep the members of the community from encroaching  
on each other or from retaining or possessing themselves  
by violence of what does not belong to them. The law ought  
to interpose its power to hinder every man that endeavors  
to step out of his place

et  
c  
or in order that every man may have his own which is the



qual & chief end of government

to another if he has got it into his possession  
or to possess himself by violence of any thing to which another  
has right. It is indeed a maxim of the civil law that every  
wrong man should remain in his possession

only when the possession was  
not obtained by violence or by fraud "In rebus dubiis cautior  
est conditio possidentis" but when one has entered into posses-  
sion by force or fraud that should be first removed & the  
voided

& restored to the lawful & peaceable possessor before any dis-  
cussion of the right takes place because a forcible or fraudulent  
entry being a palpable injury

Legal even when a man is  
re-entring into his own right ought to be redress'd first of  
all & then the right

possession gives a great advantage but that cannot be a  
lawful advantage which a man seizes to himself by  
force or fraud the advantage

petit or reclaim, cannot apply to  
those cases where the possession was constituted by fraud

bonafide possession an injury certainly cannot give any

man a right now a fourth entry being an injury  
a possession gained in that manner can give no legal ad-  
vantage to the possessor but ought to be redressed imme-  
diately. Laws relating to crimes prescribe the form of  
trial & point out the overt acts

the essence of a crime

consists solely in the unbecoming injunctions as we have proved  
at large in stating the morality of external actions yet  
this must be viewed by overt acts

Statutes that define & constitute crimes are to be strictly  
interpreted & their meaning ought never to be extended  
beyond the obvious & grammatical sense of the words.  
Constructive treason or crimes imposed by analogy are con-  
trary to justice the law must mention the act as a crime  
before any person can be indicted or accused of it. The  
following are the chief maxims of natural law relating to  
prosecution. First every person is to be deemed innocent till  
he is proved to be guilty now this axiom as well as that  
which we quoted just now must be understood in a limited  
or in a qualified sense

Preser — 63  
5



he must be confined in order that he may be tried & that  
the magistrate may have it in his power to punish him  
if he is found to be guilty otherwise the law ought to be  
alluded in every case but nothing is to be inflicted upon  
him that is not absolutely necessary for confining him & reform-  
ing him to a regular

manner or ex-

actions  
acquittal can indemnify him for his loss Every wife  
political constitution ought to discourage & punish vexa-  
tions such as an insult upon justice

The punishment of one who brings  
a malicious prosecution ought

to be inflicted on the accused persons if they had been  
found guilty The textalioris appears to be the best rule  
of proceeding in this case but most constitutions are en-  
tirely inattentive to the interests of the public in this  
respect by leaving the honor of every man at the mercy  
of every villain who will be at the charge of a vexa-  
tion

acquittal is only such halcy damages as a jury  
of 12 men generally who strangers to him will be pleased  
to award him. The practice of sending a Bill by a grand

jury before any person is put to trial was certainly designed for a security to the accused & for the prevention of needless vexations such but ought not to stand in the way of municipal law.

restrain the natural tendency no damages would be awarded for a prosecution that had been ordered by a grand jury & seems to be a law of nature which is actually adopted in the law of Scotland & in that of Geneva

Wale that he will submit to the sentence of Court in case he fails.

strictly appointed as no bail is there accepted for the prosecutor but he must himself go to prison at the

two is guilty or both parties are by this means equally subjected to it, therefore it is unreasonably hard for accused persons to be put to the expense of defending themselves

the person who wantonly puts them to that expense & trouble the law of England however unfortunately countenances these prosecutions Admiral Sir

Sir Hugh Dal.  
later we cost him 10000 £ sterling yet he had no relief.



was acquitted by the help of tearing

out some Page

Lord In some forms of government there is a *Collumator publicus* or attorney general appointed

*ex officio* & against whom no damages can be awarded as he must supposed in any case to have acted from malice In some countries however particularly in England the business of prosecuting criminals except in cases of high treason is left to private parties

to the administration of justice

& a great encouragement to crimes in England that when a person has suffered an injury he is obliged to submit to a still greater one

prosecuting & convicting the criminal so that in the far greatest number of cases the person who suffers an injury finds it much more for his interest to put up with his loss & to suffer the criminal to escape rather than to incur a far greater loss by being bound over to prosecute & incur

Criminals is

one of those great ends of government for which Taxes  
are paid & therefore according to justice ought certainly  
to be defrayed by the publick for in order that every citizen  
may have full protection in the enjoyment of his rights

criminals are extremely hard & unreason-  
able for a man is obliged to defend himself at his own  
great expence & suffer after having paid Taxes to government  
& protection

then seems to be deficient in all forms of government with  
regard to this point & those who are really zealous for liberty  
would be much better employed if they would apply their  
ingenuity

case of this kind & in endeavouring to introduce some reform in  
to publick government with regard to the rights & defence of men  
It may ever be disputed whether governments are not obliged in  
consequence of the contributions of citizens to defend their civil  
as well as their personal rights at the publick expence as those  
must always be assisting abundantly in paying taxes for defence  
& protection & yet being obliged to defend & protect ourselves  
whenever we have need of it If Demagogues were really zea-  
lous for the liberties of mankind they would rather study to  
show their real right than to put it in the peoples minds that  
they have a right to overturn all public order unknown



under a penalty on the danger of State & ought not to be per-  
mitted in a free government a legal & fair trial ought to relate  
equally to the accus<sup>r</sup> & the accus<sup>d</sup> each ought to run the  
same risk & to suffer equally when found in the wrong &  
all modes of legislation that falls short of this end fall  
not only short of ideal perfection but of that degree of perfec-  
tion which

accus<sup>r</sup>s constitutes the greatest misery of man  
kind under the Roman Emperors as well as under the  
modern inquisitions ~

Sept. 1777<sup>th</sup> April the 16<sup>th</sup> 1789-

The genius of arbitrary government tends  
on a great degree to destroy the confidence of private life to  
excite men to treachery distrust & enmity & to render the  
quiet & retirement of private families & even the society of friend  
suspected by encouraging informers taking advantage of the passi-  
on & unguarded expressions of men to draw them into crimes &  
suspicion discovers no man whatever can be safe when the  
eye of the Prince watches his private conversations & puts  
sins on his words which he never meant or imagined allu-  
sion & comparisons where none were intended The Roman  
law required the accus<sup>r</sup> to come into court & to be

confronted with the accused & it was the departing from  
this rule that rendered the days of the Emperors so misera-  
ble to the citizens & a court slave an Emperor's judge, a  
Prosecutor or a gladiator were all at any time to ruin the  
most illustrious & virtuous citizens by insinuating that  
they were not loyal to the reigning Prince & as soon  
as they were apprehended they were immediately treated  
as guilty & deserted by their friends & relations for fear  
of sharing the same fate. The 2<sup>d</sup>. Law

That no one shall be allowed to give evidence  
that may affect himself as the instigating informers by offers of  
rewards to betray the confidence of Friendship is a direct attack  
upon the social principle & consequently against the Law of  
nature so to endeavour to make any one bear witness against  
himself is contrary to the Law of self preservation. This excit-  
ing men to a sort of suicide to lay them to accuse themselves &  
expose themselves to punishment by their own confession  
of a man's testimony is not to be sustained when it is in his  
own favor surely his testimony against himself ought not  
thus to be solicited nor expected. Hence a maxim of the  
civil law "nemo tenetur jurare in suam culpam" "no man  
is bound to swear in his own guilt"



Defence they themselves must first be assured of Pardon otherwise their testimony might be fatal to themselves but when by a pardon their own interest is put out of the question they may then be obliged to —

themselves as well as others. The 3<sup>d</sup> Law is that no one shall be tortured into confession or disclosure of any sort. The jealousy of Tyranny first gave rise to torture & it might be the companion of Tyranny as long as it exists Tyrants having miserably weak minds & reckoning all mankind alike imagine that Torture will always force a confession of the truth but on this they are themselves entirely ignorant of human nature because not only great & courageous minds but also stubborn & brave & men of strong nerves will be able to baffle all the power of a Tyrant in this respect a Tyrant is incapable of considering the injustice of Torture nor the absurdity of treating

Torture is a terrible punishment & to inflict a punishment with a view of extorting a confession from the sufferer in order to expose to another a greater punishment is an insult on the laws of nature as well as on the principles of justice. Seneca in that humorous work entitled

Claudius represents  
him as condemned in the this world immediately after  
hearing his answer in the same manner as he himself  
had condemned many others during his lifetime & he  
observes that Claudius sought that way of avoiding  
unjust rather than true.

"magis quam nocere" Torture can never be a guide.  
to truth but merely a trial of the stubbornness of ones  
temper or the strength of their nervous constitution so that  
it militates equally against the soul's growth & that  
of self preservation. It is inflicting a punishment  
on an accused person as guilty & attempting  
to make him confess against his own life which many have  
actually done in order to be delivered from torture by death  
confessing themselves guilty of crime which they never com-  
mitted & simulating of crimes which cannot in the nature  
of things be committed.

many poor old women in order to  
be freed from torture & to be turned to death one for all  
have confessed to their ignorant judges that they had car-  
nally conversed with the Devil in a visible shape that they  
had sold themselves to him & such stuff as the most  
ignorant indolently would readily swallow as gospel.  
The persons thing of France has indeed abolished what was



granted punishment but the genius of arbitrary government hinders  
him from establishing...

used before condemnation to interrogate prisoners or to discover  
accomplishes. It is doubtful whether arbitrary genius could ever think  
themselves safe unless their Thrones were surrounded with the ter-  
ror of racks & wheels. The injustice which upon the same  
method has long been the object of the displeasure of the just  
& virtuous part of mankind. The 4<sup>th</sup> Law of nature with  
regard to trial is that no one shall be punished unless  
he shall have committed some actions that is manifestly per-  
nicious

governments the most effectual way of ruining  
any one maliciously is to accuse him of Treason or conspiracy  
against the life of the Prince because the jealousy of Tyranny ren-  
ders all

It may be expected that many will show  
their own Loyalty by bearing witness against him a Tyrant who  
pursues himself to be the enemy of all will very easily believe that all  
are likewise his enemies & the most aduulose suspicion will ap-  
pear probable to a person who knows that he has mounted the he-  
dred & resentment of the people sometimes the hatred of a Ty-  
rant or of his tools is not displayed by an accusation of Treason  
but of some real crime in order to destroy a person & his  
character at once though indeed it is much easier to suppose

that a good man may be an enemy to a bad governor than  
that he should be guilty of crime against society. In arbi-  
trary governments false & groundless accusations are doubly  
dangerous as it is not only probable that they will be supported  
by false testimony because those who are provided with false  
information will not be without false promises but because  
in arbitrary governments men are much afraid to bear  
witness against the Crown which prevents the justification of  
many innocent persons

almost the same thing whether  
the Parson is guilty or not guilty a personification of it being  
necessary for their own security hardens Tyrants against all  
remorse for the use of the torture & all the cruelties which  
they commit they are called by the name of justice which  
gives security as no man will call himself a Tyrant &  
even the Spanish inquisition calls itself the holy office

action criminal two witnesses above examination  
are requisite to prove any crime. The law of England by  
proceeding in many cases upon the evidence of one witness  
makes a total departure from the law of nature as well as  
from the civil law though even this differs much with the ap-  
probation of some of their lawyers as nothing can be so  
absurd as to want defendants in all cases. It is possible indeed  
that two or more witnesses may conspire to take away an in-



is so improbable that the law presumes the contrary in all cases <sup>last this</sup>  
where no objection can be made to the character of the witness  
there must be a fixed rule for proving guilt & if this rule is  
not admitted there would be no means of convicting the guilty  
in any case whatever makes threatening connection with the  
accuser want of full age or want of understanding or in-  
firmity are valid objections against witnesses by the law of  
nature these witnesses ought likewise to be

widened or  
have received any benefit from the accuser besides the  
law distrusts the Prejudice of men in favor of their near  
relations Patrim is Manufacturers so that the witness of  
a man wife child or servants or near relations cannot be  
admitted in his favor though they may be admitted against  
him but its surely left to call a mans near relations  
to bear witness against him than it would be unjust to  
admit their evidence in order to exculpate him the other  
thing this rule arises from the same necessity as that  
which makes the testimony of two witnesses decisive  
there must be general rules for conviction & none such  
can properly be established that may not prove hard  
or hurtful in some instances thus E.g. those of a mans  
own family & his near relations may bear true witness  
in his favor if they were admitted & the witness which  
they bear against him may often grow from ma-

law & us must get the law having always a ref-  
erence to the greatest number of instances

in the last If no overt act could be proved the prisoner ought  
to be acquitted because the law knows no other way of inflicting

government often admit  
insidious intrusions & such as would be totally inadmissible  
in other cases If a Roman Citizen was found murdered  
in his own house all his slaves were put to death  
indifferently being by the ridiculous laws of the  
Roman state made answerable for one another tho'  
they had not the disposal even of themselves one falsely  
naturally lead to another The absurdity of the  
very did thus manifest to make slaves answerable  
for the behaviour of one another though they were di-  
vided of all power & answer themselves In the reign of  
Nero we are informed by Tacitus that the  
governor of the city of Rome was slain  
by one of his slaves though he had more than 400  
in all they were all put to death indifferently  
by order.

unjust of such an execution indeed.



would be present & It had even been made a subject  
of deliberation

in the Senate itself  
did chiefly on the safety of the masters & the necessity of  
keeping Slaves under fear but he had not disavowed  
enough to observe that the fear of the master was the  
sole cause of that fear in which the Slaves were constantly  
kept

condition & as we avoid all to the mas-  
ter as it could properly be by the Slave. One crime per-  
petrated renders thousands of others necessary & when men have  
injured the laws of nature for their own interest in one instance  
they must do it over & over every day of their lives to  
maintain the first injury. The Slave of nature concerning  
Quals is that ~~that~~ it is better that the guilty should  
escape than that the innocent should suffer if the condition  
of human affairs could admit that all the guilty should be  
actually punished it would be certainly lawful to do so  
but as in the nation of things the greatest

legal evidence  
very many crimes must remain unpunished but it is wi-  
dently better for human society that this should be  
the case than that the accused should be condemned -

condemned in which case no distinction would be left be-  
tween the innocent & the guilty a standard of evidence  
therefore is necessary without which even the most guilty  
should never be punished

unjustly The ultimate design of human laws & govern-  
ment is to make things better not less which belongs  
not to the present state so that that may be called a  
very good government in which all crimes that are  
legally proved or duly manifested through a great ma-  
ny criminals escape notwithstanding their guilt for  
want of legal evidence or justice sometimes lies against  
them which is sometimes even as heavy & unfavourable  
as the want of evidence itself we mean the expense of le-  
gal prosecution a grievance which though it must

yet is scarcely attended to by any though in the present  
age the want of money is often as the want of evidence  
may be the cause why many criminals are not

for every check



as to be too much followed or practiced out of mere wanton  
of

member when really necessary. The 6<sup>th</sup> Law is  
that the spirit of punishment should be to correct the guilty  
& to deter others. The just proportion of punishment  
to crimes though for part of natural Equity has never  
yet been sufficiently attended to in legislation & though  
the ancients had learned to learn the severity of the  
Greeks who made all faults alike

conduct the Establishment of slavery  
introduced a disregard for the lives of men & such a hard-  
ness of heart & undervaluing the safety of mankind in  
general as is very conspicuous in their history. Punish-  
ment ought to have two ends compensation & example  
as the compensation of a crime is the cause of Punishment  
the Law must inflict evil on the guilty or compensation to  
society for that evil that he has done to another. Some No-  
minative Politicians endeavour to represent

of Punishment  
but this is frankly ever gradually & in most cases even to  
attempt it would be a violation as well as an insult upon  
justice & upon the feeling of society an honest old woman

is not corrected or reformed by being hanged though the society  
is certainly delivered from the fear of his injury in future

of Capital punishment & to hope for their correction  
or amendment is little short of madness. The object of punishment  
must ought to be the security of society which is certainly most  
effectually secured by the death of such offenders. Virgil at  
Rome is here understood very properly. what was the real  
object of public punishment, viz. security of <sup>society</sup> as appears by his  
"his time" motto at his lapidation tegitur

"Nato dieque lauro carpe victor itis"

L

When the nature of any injury admits of the possibility of compensa-  
tion this ought to be the first duty of the law & then cannot properly  
be called punishment except in so far as it is done against the will  
being only restoring of the

rights of which he was in possession  
before the injury was committed but when the injury is of such  
a nature as that it cannot be literally compensated then the  
lex talionis ought to take place & the person who cannot pay



costs in money for the injury that he has done ought to forfeit his  
liberty & be subjected to corporal punishment by way of retri-  
bution & here the maxim of the Roman Law takes place "Quod  
non habet in crimina licet in corpore" The Legislators of this  
State have come nearer to proportion punishment to crimes  
than has been done hitherto elsewhere. It is only to be wished that  
this method of punishment be faithfully executed & applied to  
all crimes for which it would be a proper punishment. Example  
which is the second end of punishment & even the opinion of  
innovators that the reformation of the Criminal is one of its

governments that are strongly in favor of  
rely urged in England against all punishments of this nature the argument ordina-  
is that they are contrary to liberty but this is really ridiculous  
as a man who is certainly more improved by his being hanged  
than by his being imprisoned or condemned to hard labour for  
a limited time. The suffering of evil by the Criminal even  
though it have no tendency to make any compensation  
to the injured is not however useless but publicly demon-  
strates the strength of the Law & awakens the severity of  
private persons by deterring other offenders from attacking  
the rights of others. The vulgar are more to be wrought  
upon by actions than by words when they see the conse-



quency of breaking the laws this is the most effectual warn-  
ing <sup>capable for</sup>  
a long time must operate much more strongly than the transient  
ceremony of an execution which is forgotten as soon as it is over thought  
less & wicked men naturally dread a life of labour ~~thorough~~ more than  
a shameful & painful death & therefore the inflicting this upon them  
as has been to be done in this state ought to be a more effectual restraint  
than the former method. It is now argued that a continued punish-  
ment of this kind hardens the sufferer against all shame & con-  
science him for falling into this crime after he is released. This argu-  
ment would have some weight if the whole of the present punishment  
consisted in shame or if it could not be repeated to the same person  
for new offences but if this argument have any weight it ought  
likewise to be said that men come to be accustomed to hard labour  
by habitually undergoing it & that the fear of it will not restrain  
them in future but the person who uses the argument from shame  
will not extend it thus far though it is of no manner of use  
unless it could be so extended & the probable operation of that  
principle as a restraint from crime then depends on many cau-  
ses for instance the state of the society to which the offender belongs  
the moral characters of those of his neighbours too & especially  
on his own character & feelings in a law & imperfect state of so-  
ciety when the first offences were punned or extremely rare  
it would be quite ridiculous in a legislator to have any de-



hondance on shame

any man has of shame with respect to the quantity degree operation or effect depends entirely on the notions which he entertains the company that he has kept & the characters of those whose friends & confidants may appear defensible to him now this being the case it will not be difficult to paint out in an imperfect state of society many persons who not only have never been confined or punished but who have been raised to the highest honors & public trust by their Country men who are however as hardened & as much left to shame by the habitual practice of falsehood & treachery as any criminal can be supposed to be after being 30 years condemned to hard labour & exposed to the contempt of the public

many men instead of  
severe punishments for crimes who when the crime is not murder  
the punishment is

The 7th Case of nature concerning crimes is that the punishment be not such as shews humanity or disorders society more than the crime itself cruel punishments are a reproach to a legislator & war to a nation when they growail the execution of Murderers on France by breaking their Bones one after another & leaving them sometimes for more than 2 days

Spent of an arbitrary monarchy.

The punishment of Crucifixion which was inflicted on slaves & mean persons by the Romans was a diabolical invention & served only to display that cruelty & inhuman hardness of heart that is necessarily inspired by the institution of slavery rather than any regard to justice especially when we consider that this awful punishment was often times inflicted on unhappy men for

of small value for killing a little slave or retreating from a ditch or for staying too long on any errand some masters who desire to gratify their passions without losing their slaves. Ruptured corns when yearly Gallies is let out their slaves when ever they were angry at them in such a manner as that their lives might be preserved

Sunt que tortoribus

The Dignity of the law & the dignity of human nature is insulted by such punishments which excite merriment

To give a poor soldier 500 or 1000 lashes which is frequently done in England both in the Army & Navy is little to the same situation. The mildness & humanity of the Jewish law in



enacting

the imitation of all legislators who do not reckon them-  
selves too wise to be instructed if cruel punishments can  
ever be necessary or excusable in any case. It must be when  
they are required by the Lex talionis as an equivalent for  
a shocking murder or any crime that is perpetrated with  
great cruelty or when the nature frequency or danger of it  
requires additional terrors. The law of England or-  
ders those to be punished to death whether males or females  
who refuse to plead to a criminal indictment & this is  
so far defensible on account of the danger of that crime be-  
cause if a person could escape conviction or punishment  
by not pleading to his indictment there could be no convicti-  
on or regular punishment whatever. It likewise condemns  
a collier to be boiled to death if he is convicted of possessing  
a ~~man~~ woman to be burned to death when convicted  
of the murder of

The intention of the Law is hu-  
man & beneficent & designed only to defend the domi-  
nation of justice to secure the confidence of private life  
& to add terrors to the punishment of crimes that are  
most shocking to human nature

exemplarily punished the Punish-  
ment of which is common among the Masters  
& the Masters often insisted on the place by the Planters  
of Jamaica who often lost several days an induction of  
Death or barbarity & a scandal to human nature in order to  
secure legal rights it is necessary that the Law should be  
strictly interpreted & rationally applied but in the greatest part  
of political Constitutions there is a very great defect.  
respect to civil wrongs or offences which by the Law of Society  
are generally too much distinguished from crimes against

There are many civil offences  
for instance which if duly estimated would be found exceeding  
worthy of being ranked among crimes against Society  
& punished accordingly E.g. fraudulent Bankruptcy  
victorious

breach of trust heathen falsehood

& breach of faith in common life if we consider the hurt  
that they do to Society will be found to deserve equal  
punishments as Theft & Murder & in many cases of  
this nature capital punishment might be judiciously  
applied according to the estimation of natural equity  
Crimes of this nature ought to be subjected even to greater  
punishment than Theft & Murder because they are

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security of private & communal life to a much higher  
degree than theft or robbery could ever do besides they  
are more injurious to private rights & no prudential  
whatsoever can guard against them now if the criminal  
law were extended to these including compensation  
in the first place on cases where property was  
injured it might be of singular use for restoring  
credit & confidence & preventing frauds in society &  
cannot be prevented in any other manner so rational  
an extension of the criminal law would do great  
honour to the legislator who should adopt it

case it would not fail of being copied by other states &  
nations & would tend to increase the security of hu-  
man society & the defence of the rights of mankind  
Under the government of laws discretionary powers are  
not safely entrusted except the judges named by the parties  
or de jure purged by the challenge of parties & equally  
intended to protect the innocent & to punish the guilty  
by the jury & the law to determine what action an  
accused is guilty of & the jury to determine what

The charge

In the administration of civil justice the case is the same the business is the defence which of the parties is injurious or guilty of a civil offence against the other in this case decides contracts as well as parcel evidence an employer determines which of the parties is guilty of injury in civil causes an commonly supposed to be a capital privilege to afford the most effectual defence against the corruption of judges they are indeed a security against judges because they take the business almost wholly out of their hands but who shall be sent for the juror themselves? being in possession of power for a very short time they are so much under temptation to abuse it as judges can properly be & indeed much more so because they do not exist as a body any longer than during the sitting of the court & if they give any verdict that is scandalous or shockingly unjust the infamy of it falling upon a number of families is not at all felt by individuals

in proportion to the actual state of understanding & morality that is generally prevalent in their vicinity  
was put as these



of 1, 2, 3 or 4. Juris may

whom the political constitution  
conjoins with the legal judges in order more effectually to con-  
vince the public of the rightness of their sentences when they  
are thus joined to be the same with those of the good people  
of the country

Hence the number of judges in England is the same with that  
of the

15 in number the juris likewise consist of 15 now  
the intention of the political constitution in this matter seems  
to be to add the equity of an arbitration to the solemn-  
ity of a legal decision. The jury may be said in some

as they have a right  
to challenge or reject as many of y<sup>r</sup> as they have any objec-  
tion against but when the judges have discretionary pow-  
ers the right of Parties are much more

permitted which is always left  
to the discretion of the magistrate in the security of the rights  
& defence of men civil & political liberty properly con-  
sists Civil liberty is opposed to injustice but not to restraints  
as the ignorant are apt to imagine for liberty cannot subsist  
without the supposition of the restraint of just laws  
otherwise the effect of liberty would only be the defence.

tion of the rights & liberties of man by one another words  
that are undefined & of no determinate

especially if they are conceived to  
relate to the general concerns & rights of mankind The  
words Law & liberty as well as virtue & religion are  
terms that are very often abused & erroneously understood  
Thus Law has often been applied to the men with a des-  
pot & liberty to the

is extremely apt to be misunderstood

a negative term being as it were a vacancy into which a  
man might cram any thing whatsoever that occurs to  
his imagination or gratifies his passions hence liberty has  
been often understood as an exemption from all law & a  
privilege of not being bound either by one's own deeds & ob-  
ligations or by the laws made by his representatives

justice  
& immediately destructive of civil society but the way  
to understand liberty aright is not to consider it as the ex-  
clusive possession of an individual which is the very de-  
finition of Despotism in a state where the Despot is the  
only freeman & all the rest are his slaves but we  
ought to consider liberty as equally the birthright of



rights of another? or by an endless & uninterrupted reciprocation of injuries & revenges such proceedings would soon turn the liberty of the greatest number by extending that of a few. It is manifest therefore that the liberty of a society must consist in the whole of them being restrained in the strictest manner by the law within the exercise & enjoyment of their own rights & effectually prevented from encroaching upon those of others. It is in this manner only that every individual can be free for that is true liberty when every man possesses all that belongs to himself & when none possesses any thing that belongs to another. The indulging of any one to the hurt of others is doubtless contrary to equality & proportion which is

individual

in the possession of his own rights by restraining all from going out of their laws & by punishing those who either under pretence of right or liberty encroach upon the rights of others

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# Lecture 179<sup>th</sup> April the 20<sup>th</sup> 1789 —

constitution. It is only impaired by

that members than the Roman Senate after the expulsion of the kings enjoyed the same privileges as formerly distinguished from the Knights & commons only the sovereignty was transferred to the annual magistrates who were elected by the people. The Magistrates of Holland on becoming a province chose to retain only those privileges if had been formerly granted them by the Count of Holland their ancient sovereigns & to put a Stadholder first elected & then hereditary in his place. In the aristocracy of Venice & the Kingdom of Poland all the liberty of that is enjoyed belongs only to the nobles & the rest of the people as nothing being nearer to the slaves & even in the great charter of England

even mentioned in it according to the first interpretation of that Charter all the other inhabitants of England are mere strangers & not directly introduced to the benefit of the laws. These indeed are the most salutary laws which distribute the benefit & the wisdom of civil society in the most equal manner but it is no small measure of liberty



to be secured  
To be defended against injury & to be maintained in the enjoyment of  
our own rights will suffice every rational lover of liberty but the lo-  
vers of rest & confusion who often disguise their pursuits & intentions  
under the name of liberty would always include under it the  
liberty of sitting others with impunity of tyrannizing over the weak  
of subverting the administration of justice & destroying the rights &  
happiness of men such people as these can never be had in too great  
abundance or being rebels to order & justice & a scandal  
to the name of liberty. The political happiness of a people consists  
in the love of their country & in that distribution of rank & of  
power which is best suited to their merit & capacities the idea of  
a perfect government or political constitution implies the putting  
every member of society in that place which is fittest for him & main-  
taining him in his place & in the enjoyment of his natural rights  
so far as is compatible with the safety of the society and  
the rights of all others Men that are raised above their natu-  
ral place or their place which their talents & merits give them  
for an improperly speaking are much injured by being put out  
of their place or when they are put below their due place &  
deprived of their rights & privileges to which they are entitled  
the human body which consists of a number of parts prop-  
erly arranged is commonly considered as the best representation of  
a well ordered body politic & as the due arrangement of the



different parts constitutes the happy luxury &  
upfulness of the natural body the like arrangement  
& perfect disposition of parts is not less beautiful rational  
& useful in the body politic when a man stands on  
the crown of his head his feet are exactly as much too high as his  
~~head~~ head is too low

the most natural. now the happy  
turning position of a state which is commonly recommended by  
the

is healthful to the body politic as it is to the natural body  
The liberty of a man with regard to his body consists in the na-  
tural & perfect of his limbs lost in walking upon his  
heels or working with

retrograde motion as Tumblers.

Sometimes do in like manner that place is left for every  
man as a member of the body politic which he is capable of filling  
& which may be called his own place for the like reason. The  
natural body thoughtful consisting of the same parts or members

actions  
except when every member of it is in its proper place. It is  
common for ignorant people to mistake the nature of a repub-  
lican government & to imagine that because

there are  
no distinctions admissible among them but that they are



like the  
fluid & different shape in a flock who cannot be discerned  
from each other & that all of them are equally qualified for the  
higher lower or middle places in society this is a delusion arising  
from ignorance of nature which produces men with very unequal  
capacities & talents for society & commonly determines their proper  
place by the degree of talents conferred on them now although  
that it is readily granted that the rights of all men are equal  
yet their talents were for enjoying these rights & especially for  
maintaining them are often very unequal thus when a man  
is non compos mentis or an infant or a minor he is inca-  
pable of enjoying or administering his estate tho his right to  
remain unincapable now with respect to officers of state or  
civil dignities there is in many nay in most of those  
who have the right of citizens a complete & permanent in-  
capacities as that of non compos es is the enjoyment of  
a man's estate now although these incapacities do not  
take away the right yet they totally disable that person  
where they affect him from enjoying that right as long as they  
continue thus E.g. if a man is born blind he will not  
be very fit for steering a ship or commanding an army  
or if he is deprived of the use of all his limbs by a  
dead palsy he would not be a very proper person for being  
an Edücing to carry the General's orders with expedition

of a blind man or a Paralytic to any of these Offices is no sort of  
injury to him nor any denial or restraint of his rights but the  
consequence of a natural incapacity. In the same manner if  
a man had entirely lost his hearing or even if he had no ears for  
music he would not be fit to teach the art & to conduct a band  
of music & would certainly suffer no injury though he were  
never thought of for such an office when the Pretenders  
forces were defeated at Culloden

in the in the field  
a person so extraordinarily deformed that he excited the astonish-  
ment  
ment of the galled heart an immense expense on his nose & ears  
eyes & crooked back his legs bent like a bow & the feet turn-  
ed almost quite backwards this extraordinary personage  
the pretender?

He replied that he was his dancing master: upon which the  
judge observed that of all the officers about the pretenders  
person never felt with equal propriety he was not at all  
surprised that his Affairs had gone so far wrong. now  
some writers in explaining the nature of republican govern-  
ment

to each other that they incur the risk of appoint-  
ments & elections no less irrational & ridiculous than the  
one just now described



or constitution & the excellency of political wisdom in  
arranging the members of a republic consists no less in following  
nature than a true taste does in the fine arts. There is cer-  
tainly no reason why a republic should always be worse  
governed than a monarchy or a aristocracy yet it must al-  
ways necessarily be so unless it endeavours to avail it-  
self of all the discernment & capacities of its members

officers these  
constitute ranks in society & determine its nature for  
one officer & consequently unfit for another. There is a person  
who is an excellent seaman may be exceedingly ill qualified  
for many offices on shore & an excellent land officer may be  
totally unfit for the sea service now as the distribution of differ-  
ent talents to different individuals is the work of nature  
itself it cannot be altered by any earthly power & so fit  
ourselves to destroy it or to establish a pretended

creational as well as a foolish  
& unkind attempt if we should endeavour to join the talents  
of men in order to bring them to a level it would be quite  
as ridiculous as to endeavour to change the qualities & na-  
tures of different animals. You have

" atque idem jugat  
Thuc to oblige a man to be a poet who does not know  
molestation.

Thus to endeavor to thrust men into  
offices in a state by the force of men as arbitrary Electors whom  
nature had totally disqualified for these offices as if Election &  
confer qualifications upon a man which he had not before or  
control & change the determination of Nature and yet the  
hundreds small will probably contain in it as many men who are  
fit for every office belonging to a state. now it is the business  
of electors instead of acting the Dictator or making a Parade of  
their power by choosing whom they please & only because they  
please to follow nature & to inquire who among all the mem-  
bers of the state possesses the necessary talents for any office if  
dictators for instance should consider the office of a judge as a  
man literature one & consequently elect to it a person who had  
neither honor nor justice nor knowledge of the laws their election  
would be formally good & legal being the will of the ma-  
jority but it would be materially wrong & highly injuri-  
ous to the public the interest of the public therefore ought  
to appear in the choice of their representatives officers of state  
& the more regard that they show to natural qualifications  
& moral worth the more they will serve the interests of the  
public we have not hitherto mentioned moral worth as  
a qualification for any particular office  
fit for all citizens  
wif. because it is liable to be counterpoised & totally pre-



tended to by those

to officers in a republic will always depend upon the moral taste of the Electors or will arise from the general state of morals in the Society for the time being Selfishness or a supreme regard to private interests is the greatest enemy of morality & the love of praise & a sense of honor are commonly its greatest friends but as we have just now observed it depends entirely on the moral taste of the times & the characters of the people in general what qualities shall merit praise & what kind of praise men are fond of for in an age E.g. where is nothing is reckoned valuable except money & where any method of gaining money is reckoned honorable enough providing that it is successful We can plainly be expected that those who are elected to public offices will be much more virtuous than other people & if they are not made responsible for their conduct & administration

their country &

the nature & degree of a man's love to his country

mode of

thinking Thus if a man is vain & ignorant his love to his country will consist only in a selfish boasting of it & blindly ascribing it to all others in the world & in being re-

thing in the least amiss on its constitution & administra-  
tion

a generous but if a man has any notion of real dignity or  
"expressed of any moral worth or sense of honor & is desirous  
of the fame as well as of the peace & comfort of his country he  
will consider himself as entrusted with a part of the regu-  
lation & endeavor by an upright & disinterested conduct  
when elected to any office that he did not accept of this  
office from mere views of profit but with a design to be-  
nefit the public when such men are gratified they will pro-  
bably abound but when no praise is given to merit it is no  
wonder that merit should be very rare. My friends will co-  
act the regulation of Patronage & often

actions in order to be esteemed but

when money or party & corrupt influence the only quali-  
fication for public office & on the only recommendation to  
the favor of the electors the case must be different Interest  
& party will then take the name & place of the public  
& the whole of a man's actions words & designs will be  
directed to these ends only men who are wholly set on the pur-  
suit of money will have little or no value for honor & in  
times of hot party zeal or in the scramble of private interest



honor will never be thought

point of Justice & Character an equal division of property is  
most unjust as well as dangerous & impracticable.  
All men must always be unequal in mental & industry  
capacity & diligence & to pretend to make them equal  
or equal notwithstanding is not only extinguishing  
the rights of property but it is putting an end to all  
industry & superseding all reason. Equity & proportion  
no state could stand a single year or even the shortest  
period of time in this situation in which our rulers  
in Politics would have it placed at all times men of  
property oppressed none but the indolent & worthless w,  
be pleased & the whole of them must soon enough prevent

would wish to throw  
us into but ~~unhuman~~ nature will never be so strong for  
their attempt & even those who profess liberal principles  
sometimes they themselves acquire any property ever it only  
from the plundering of others w, be as averse as any to divide  
it with others

extension of property & a community of goods nature  
& reason revolt at the thought of it & this consent is only  
supported by a few indolent & worthless people who having

nothing to hope for from industry & desire to live idle  
at the expense of others not being capable of exerting  
obtained an  
universal famine & misery must immediately ensue -

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equal to each other in losing the chief ad-  
vantage of a republican government which consists in affording scope  
& opportunity for the natural disposition to emerge from obscu-  
rity & to exert the power by those talents which nature has  
given them

"Maced

"Picoangusto Do mi.

Supposing that there are in monarchies many persons possessed of  
singular & decided talents for public business yet how shall they  
be employed & how shall they be introduced to the notice of the  
Court if they have not the interest of some grandee or hap-  
pen not to be related to the mistress of the post monarchies Their  
qualifications will probably for ever remain useless & they  
will never be employed but suppose these same persons

given them an easier opportunity of availing themselves of  
their natural dispositions & thereby advanced to offices by  
the suffrage of their countrymen wherever they brought



government to mortify all men of mind as such & to hold a fool  
to be in every respect equal to a wise man this would be a monarchy  
& indeed one of the worst kind a monarchy of dunces in which  
every office in government would be filled with the most unfit  
subjects of the State for the purpose of demonstrating that fools  
were as well qualified for their station in the judgment of  
the people when Democritus the architect wished to become  
honour'd Alexander the Great he could find nobody to introduce  
him or to mention him to his majesty he was poor & friendless  
& almost hopeless though he possessed of excellent talents in his  
art he found a refuge however in his own invention which  
succeeded he first took off all his cloaths & anointed his body  
with oil like the wrestlers then a lyons skin about his  
shoulders & wore a great club in his hand in imitation  
of Hercules & in this strange disguise threw himself in  
the way of a King at a public ceremony

he called to him w<sup>h</sup>  
was just what he wanted even conversation he easily  
convinced that despising Prince that he was capable of  
serving him & was employed accordingly he drew Babylon  
of Alexandria built the Dec &  
moved Athens into the form of  
a man holding a city in one hand & pouring a river out

of the other of Alexander had returned also from the

clashed according to their merits to  
be employed suitably to their abilities & to find those stations in  
which they are most likely to cultivate their talents & their  
virtues artificial or external distinctions such as grade  
under monarchies an apt to confound & obliterate natu-  
ral distinctions & to introduce an inequality & dispo-  
sition into the affairs of the Public under these govern-  
ments men may be appointed to offices without having  
any merit merely by

their ancestors but those who have none  
of these distinctions being considered in a more important  
point of view may be much more probably clasped accor-  
ding to their merits. Thus we find that under monarchy  
the lower ranks & offices of life by not being crowded with  
persons

filled

than the upper ones  
when both the fortune often counteracted nature & reason  
In monarchies likewise the qualifications & despatches of the  
higher offices are commonly men of ability to compensate  
for the want of it in the  
interest of service. Thus the Secretary & Clerks in the  
of a minister of State having perhaps —



ability or skill or experience but the Member has all  
the end of it to show the acts the general character  
where no great honor or profit is to be got in an office  
it may probably be well & judiciously felt

circumstances  
Now when men are in their own place & have an opportunity  
of cultivating their talents & gratifying their virtues they  
must feel happy & easy & be disposed to be pleased with  
every thing around them a rational love to our country arises  
from seeing all affairs generally settled with proper persons  
such as people the confidence & have merited the  
esteem of the public such a situation constitutes political  
happiness & exerts men to love their country justice  
order & arrangement of every person according to his merit  
are the circumstances that serve most to distinguish  
a country that is well-governed from a contrary one  
in order that a community may be loved on the highest  
degree its members who are in private stations  
should be relieved of public anxieties & have leisure  
to attend to their own interests & those who are chosen to  
serve the public ought to be relieved of personal anxiety

& occupied only in what relates to the public. In order  
to be capable of loving his country a man must first

content with the arrangements of others.  
hence persons that are in want of satisfaction & uneasy  
in their circumstances & saying the state of others are  
apt to be always with the government  
& political state of their country suspicious of the skill  
of the governors

on the other hand there is an inferior &  
jacob who occupy a situation that in their mind  
are always much attached to their country & persuaded  
that there is no place in the world where merit is better  
rewarded & that its affairs are in a most flourishing  
hopeful condition

Young respects  
by that of their an honest Dr.  
as giving a most  
flattering account of the situation of Great Britain from  
the very circumstances in which he found himself but in-  
ferential at the same time that a change in his pri-  
vate affairs would entirely alter all his views of  
the state of the public

"Strike off his person are the fitting pun

"And Britain if not Europe is undone —



properly employed so that they may be pleased with their situation & avoid as a change of it because when they are really disappointed now or unemployed they are ready to throw the whole blame upon the times & to conspire against government upon the same principle Ministers have often grounded success & ruination.

in order that those might be quiet & by having something to lose in the present state of things may not be disposed to wish for a change in the contrary those who are opposed most commonly to conspire against

indolence extravagance or intemperance who having nothing to envy those that have any thing & as jealous of others from hatred of their present situation would wish that all things were turned up side down imagining that they would be profited by the change merely because they know that at any rate they can lose nothing. All revolutions in government are generally aided by persons of these characters & if their desires are not gratified under the new government they will be equally ready for a new revolution now all wise governors who really love their

that purpose  
that they should be properly employed & each of them stationed in his due place the encouragement of arts the

promoting of knowledge & industry

not only because they pro-  
fit the public but because they occupy the talents of active  
men supply their wants reconcile them to their condition  
prevent them from complaining of the constitution or admi-  
nistration of government thus their measures which are  
entirely to the great satisfaction of the citizen.

admiration & esteem  
of the public a State is nothing else but a great family now  
as that family may be said to be well ordered & governed  
if each every member in his own place does his own work  
as much with his own reward in the same manner a state  
is happy in which the private affairs of the citizen are man-  
aged in a good situation which much depends their mind to  
contentment & good humor for however highly some men  
may value liberty & with however great Enthusiasm  
they may believe it yet can neither be good drinks nor  
clothes to them & without property must be quite taste-  
less & disagreeable if the citizens of the united

that applied  
themselves with vigor to promote their private affairs to  
pay their debts

to encourage useful arts to employ ingeni-  
ous & useful men who might do honor to their country



as well as lip jangling about

Government

that unhappily foolish counsels prevailed Joseph & dishonest men were employed indolence was encouraged instead of industry & men seemed to think themselves all Princes & as much

Woe nor pain yet are gorgeously arrayed by these distracted counsels foreign trade was encouraged instead of domestic industry & manufacture & though men loved their money yet as if they had been possessed

this Country they threw it away without thought by importing such an inundation of foreign luxuries as all their money & industry will not be able to pay for such men need not attribute their misfortunes to government which could be neither more foolish nor more wise than they themselves made it but government wanted strength wisdom uprightness & energy tho.

Settlements to supply us with luxuries by way of tribute & now we have no money to find to market really wanted & should have endeavored to

acquire

to pay for The crown on government we

have given in so had a name among

among us have all originated from our want of wisdom  
in our private affairs being grudge at finding away of  
money yet they are eager to purchase the commodities

to the cause they pretend to blame & alter the effect  
how much or how little wisdom there is in their conduct  
we need not say one thing certain that it ought to  
be laid aside therefore our existence as a nation must  
soon come to an end if the citizens could be made to  
consider the state as the equal parent of all its citi-  
zens distributing equal benefits requiring equal  
services they might then be said to be in a right  
way of thinking but the case is commonly the very  
reverse

unless the public Treasurers unless the public transac-  
ters were constantly distributing paper money gratis

proposed that a sum should be lent by govern-  
ment to each equal to half their estates but what



profession but are justly waiting  
in expectation that nature will make them rub by  
working miracles. The industry & singularity of individuals  
is the sole parent of greatness.

Patriotism likewise because  
those who have gained any thing will always be so  
much the better affected to cherish the useful arts by  
offering to every one a certain satisfaction.

Intellectual & indefinite  
care necessary too must followed or encouraged as  
these since to create greatness by labour without  
waiting for the revolution of the seasons. Indeed  
whenever the state confines political consideration  
to public literature employment is a particular order of  
men who sacrifice the rights of the community.

Republic  
where every man has an opportunity to display  
his talents he may expect at least to have a  
much better chance of being considered & employed  
than in monarchical countries where

particular orders of men & the exclusion of others both  
the faculties of reason & the virtues of the human heart are  
best cultivated in arduous situation & in the exercise  
of public duties a person capable of real patriotism will  
find his mind & heart infinitely delighted by it  
& will be able to take pleasure in the prosperity of the  
public. To do some service at least even in an evil  
day is not a little consoling & the talents of men  
are not likely to show with greater brilliancy than  
in arduous situations. "Vexatio dat intellectum"

"Arduus labor in re multa comitatur"  
For times of public

and what ever  
come in some degree the general corruption & in a man  
ner to redeem the character of the times. There can scarcely be  
more need of such persons at any time than there is  
just now in this country

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In investigating the convertible constitution or form of



government it is impossible to arrive at certain & determin'd  
The answers of such inquiries being more  
& hypothetical notwithstanding what we may conceive in gen-  
eral as desirable for mankind every political question must have  
a reference to some particular case & must be determin'd accord-  
ing to the circumstances of that case Men of speculation have  
in vain endeavour'd to fix on a model of government equally adap-  
ted to all mankind we have seen already that all the actually  
existing forms of government as well as all the different plans that  
have been made of a perfect one uniformly suppose something in  
mankind which is not in them & pay no regard to certain prin-  
ciples that are undoubtedly found in human nature on this ac-  
count no simple form of government can either be permanent

subsist long without some mixture of the others In order therefore  
to discover what plan is preferable we must first suppose the  
people to be governed under a certain state & of a certain charac-  
ter because it is only on this supposition that any one form can  
be said to be preferable to another The varieties of the human  
character the different situation of mankind & the imperfection  
of all conceivable forms confine all that we can deliver as conclusions  
of Science on this subject within very narrow bounds but this is  
necessary from the nature of the thing & the goodness or badness  
of any form of government is merely relative & consists in its  
being more or less suited to the character & situation of a

particular people If any one form proposed a general  
fitness or if mankind were possessed in one state or were  
possessed of any one uniform character our conclusi-  
ons on this subject might become certain as well as more  
numerous but the indefinite variety of the characters of  
men the manifold changes in situation & the varie-  
ty of characters of individuals exclude all higher degree of  
certainty all that can be discovered then in this subject is  
first to make some suppositions concerning the state &  
characters of men & to compare these supposed states &  
characters with the several forms of government in order to de-  
termine which of them is most proper for each & in applying  
the doctrine discovered we must examine how far the charac-  
ter & situation of any people can be said to coincide with  
the case supposed perhaps no one people is fit to be go-  
verned in the very same manner with another the diver-  
sity of the temper of men compared with the conformity

to the Philosophers whether we consider those idiosyncrasies  
or peculiarities of temper as the effect of different material tem-  
peratures or bodily constitutions or whether we consider them as  
habits of the mind induced by circumstances & cemented by  
custom we are to consider them in this place as they affect the  
mind without deciding on their particular origin one people



E. G. is cap

Prove them another but from various circumstances that con-  
cur to form national characters one people being in general  
much more disposed to duty & much greater lovers of order than  
others. Thus the conquering armies of Scandinavians which  
filled in many parts of Europe were accustomed to obey their  
leaders in war & easily continued this habit after they were  
settled in the country though very far from absolute obe-  
dience. In Asia again where slavery first took its rise  
the minds of men are easily disposed & they are apt to be  
governed by superstition so that mankind in that quarter  
of the world have always believed them placed under the protec-  
tion of some body or other potent power to a divine mission or being  
defended of  
in war have been uniformly sufficient to engage the obedience  
of mankind in that country indeed they always obey their  
lords & never revolt from anyone except in favor of another  
who has taken more pains than the first to persuade them  
of his right to command their obedience no Asiatics ever  
fought for themselves nor even dreamed that they had a  
right to liberty hence they have no notion of a republican  
government & an incapable of conceiving even the  
possibility of such a thing when the Dutch began to  
trade to Africa they endeavored to make the natives -

to make them conceive that there could be any nation  
without a master so that finding themselves despised by  
the Apaches as fugitives that belonged to nobody they  
were obliged to pretend that they were subjects of the  
Princed Orange in order to meet with tolerable respect  
& credit in that country

of Brazil when they got pos-  
session of that country the ancient nations of Europe appear  
to have been generally of a more jealous & haughty cast of  
mind so that we do not hear of these long wars or ex-  
cessive monarques among them that are so frequent in  
Asia. On the contrary the Europeans appear in general to  
have been always prone to revolve charges of Princed  
& of form of government. In Asia one despot has uniformly  
succeeded another the Kingdom of

two or two or more may have been  
united in one but despotism has been uniformly the form  
of their government & slavery the condition of their  
except the ancient Europeans or their migrations  
from Asia seem to have been among the first that  
discovered any knowledge of the liberation of men though  
they migrated under the conduct of such the authority



much life after  
they arrived in Europe than it had been in the mother  
country as we find it was generally a long time before  
they could prevail upon them to dwell in cities or even  
to have fixed dwellings of any kind. Some appear to  
have rebelled against their chaps & to have murdered  
them & perhaps the transmigration of Cadmus & Hermio-  
ne the founders of Thebes

to cover their being murdered by  
their rude company whom they had conducted into  
Boetia &c.

up to heaven in a whirlwind - to cover the sto-  
ry of their being killed in the senate house but  
the people were not so rude in the days of Julius Caesar  
so that the same story could not pass a second time  
perhaps the description of the heads of sundry migra-  
ting Tribes which we find in ancient tradition might

of the same kind as we see that it was very frequent  
among the ancients to dress the migrating ships & heads  
of Tribes Government in every part of Europe from  
the beginning of the settlement has always been very

fluctuating any degree of stability that appears  
in it being only among the barbarous Tribes describ-  
ed by Caesar & Tacitus the Kingdoms of Sicily

Attica with many others

that are mentioned in ancient times were & but of short  
duration & many Kingdoms lasted only the age of  
one King. It would be almost apparent that these  
very Kingdoms were made up of lesser Tribes who  
perhaps had changed their form of government several  
times over before the ~~present~~ period of which we have  
any tradition. The Middle Ages in Europe appear to  
have been very unsettled & their governments were ex-  
posed to continual revolutions.

Tray & the stones that are  
related by Orosius of the Trajans of former times as well  
as the history of the Trojan war & the misfortune of the  
family of Colep. are all of them strong illustrations  
of the same position namely that the first settlers of  
Europe were in general turbulent impatient suspicious  
and extremely hard to be governed. The dispositions  
of the Nations in modern Europe appear to be com-



pounded of  
ancestors other the Muscovy & Turkish Empire retain the  
ancient temper of Asia we read of no rebellions among  
them except what were excited by impostors pretending  
to be of the imperial family Germany & Scandinavia  
have always had a mixture of Raughness & revolt  
in their tempers Italy admits of the like vanity Spain  
retain the Spanish character & great Britain makes a  
world by itself but the modern French seem to have  
& blended them  
in a most union manner in their national character  
as they have at once a great elevation of mind & a  
strong sense of honor & at the same time have always  
regard them selves on their obedience to their Kings  
The French from whom they

of Liberty that they  
do to their national appellation Permit & were  
zealous in

far from being absolute The  
French national character unites elevation & submission  
they have the highest opinion of themselves their nation  
& characters yet they know no will but that of their Kings  
whom they consider as the visible representative of

The Duty upon Earth Even the intelligent Mr. De-  
Moyere's admirers how people can pretend to have to  
have any reward for God when

a treatise  
published in the age of Lewis the 14<sup>th</sup>. after the celebra-  
tion of each moral virtue they are uniformly represented as  
existing in their just suspension in the character of the  
Prince & every section in the Book concludes with  
an Eulogium

Voltaire informs us that the French academy  
had once proposed it as a prize question what of the  
things virtuous was the greatest but the thing  
academicians & other adven-

turers.

making  
the merit of several Saints in  
Saints as they  
endeavour to extenuate the merits of all the rest in order  
to make the Saint of the day appear to better ad-  
vantage the thing considering all this we say forbad  
the question &  
is delicate a subject as the enumerations



© ended the

wishes of Louis the 14 were of too kind a texture  
to induce desecration, contempt or extenuation & un-  
doubtedly all of them would have been dashed to pieces  
against one another if the Academiens had been per-  
mitted to proceed. It was therefore the greatest prudence

the fullest end to that system of Law to  
suppress all right power honor dignity & authority to be  
in the Prince ended they consider all their Princes as  
naturally possessed of all these & both their happiness &  
their obedience appear to arise from this belief that hu-  
man mind is always elevated by contemplating the  
ideas of worth honor power &c

or self & on any object real or imaginary  
in which it thinks it can discern them habitual  
sentiments of respect dignity honor & virtue are elevat-  
ing in their very nature

Properly that can be conceived  
when the King is at his devotions ~~that~~ before  
& thus faces to the King as if he was the real object of  
to the altar

their worship which is ended after the case they  
take an interest in his glory & conceive their happiness  
or bound up in his name if all mankind were able to  
continue so agreeable a disposition we would not

absolute monarchy the best form of government the sit-  
uation with which they entertain themselves an certainly  
very delightful

power & honor regards us & studies our wills  
to think that we see this being & that we discern  
the undoubted proofs of goodness in his behaviour gives  
a great confidence as well as a high degree of elevation  
to a person who is truly religious is  
confident happy & contented because God who is a being  
infinitely perfect presides over the world & controls the  
operation of all.

even the same manner  
Frenchman having the fullest belief & conviction of  
the excellencies & virtues of his Prince is convinced  
that every thing is possible & that if the  
Prince ever errs it is only through an excess of good-  
ness or by giving credit  
more real happiness



other. the pleasure of imagining that they are happy & cer-  
tainly with regard to the present state. the person who  
thinks himself happiest is contented by the happiest  
man as Seneca observes "non est beatus

in that it is impossible to continue the illusion for any  
length of time especially under great difficulties & fre-  
quent opposition so that the French have now lost much of  
that satisfaction that they formerly enjoyed in admiring  
the virtues of their King & appear now to be as fond of  
liberty as other people

other that liberty will extricate  
them from their present difficulties. The suspicion of  
men contribute very much to their unhappiness.

Sorrow -  
It is as natural & unavoidable to be distressed & de-  
jected at the thoughts of our many selfishness, deceit  
deceitfulness & selfishness as to be elevated with the ideas  
of truth magnanimity honor & justice. The question  
only is how far these latter prevail in the affairs.

of men & necessarily renders us unhappy in  
thinking of them as guarding against them to  
admon exultation is creating a delightful test to  
guard against defects is necessary though far from  
being agreeable —

Lecture 102 April the 21<sup>st</sup> 1709.

The circumstances through which a people have  
passed have commonly a very great influence on their opi-  
nions concerning different forms of government & by the  
change that they have undergone in many places it may  
easily be discerned that the opinions of men on this subject  
are as liable to change as their situations in many small  
States in Greece republican & monarchical government  
succeded each other several times over & the bloody me-  
thods that were commonly taken to establish each of  
kindred to the other, in their turn each State seemed to consist  
of two factions one for a <sup>power</sup> & the other for aris-  
tocracy or democracy & these two factions used to banish or  
murder each other alternately according as either had the major-  
ity when there was no balance or check on the will of the



people a majority will often pursue to very high measures  
e we find that popular murder & banishment were the  
most common methods that were taken by these hostile  
people for suppressing minorities & displacing & estab-  
lishing of the greater number. The con-  
flicts were frequently so numerous that by means of a  
small army from a neighbouring prince or state they  
were often able to restore themselves by taking thus an  
easy way to force & to murder and expel their antagonists  
in their turn these changes are so frequent & striking  
in ancient history that Mr. Hobbes in the last century  
translated the history of Thucydides into English in order  
to recommend monarchical government to that nation  
by setting before them the numerous misadventures, banish-  
ments & civil wars that prevailed so much among the  
greek republics they are indeed very worthy of remark  
& serve to display the weakness & wickedness of men  
as well as the utter impotency of all forms of govern-  
ment what soever but Mr. Hobbes was sorry for what  
he had done afterwards because Thucydides not only exhi-  
biting

republican

government but to preserve its influence; the security that  
it is capable of giving to the rights of mankind he was  
employed by the minister of Charles the 2<sup>d</sup>. to reconcile  
the English to a simple monarchy, for which purpose he  
wrote his *Leviathan* in which he shows himself much  
prejudiced against the quakers & Roman Catholics which he  
thinks tend to make people fractious & rebellious to their  
governs. But is truly surprising that this opinion of  
Mr. Hobbs endeavours to inculcate for the purpose of support-  
ing absolute monarchy should have been adopted by  
Republicans who profess to be zealous for the rights of man-  
kind nothing

freedom than the antients au-  
thors of Greece & Rome who had the most distinct know-  
ledge of the rights of mankind & yet that whom all the  
world would have full been slaves the grandeur of y<sup>r</sup>  
sentiments as well as their exact

we they employ will always re-  
commend the study of the classics to all that are not  
Protestants, & will under this duration equal to that of  
the world & others differ from each other in respect of their cha-  
racter & respect to their state or condition. The character of  
a people refers to their degree of virtue or of sin. & other



1  
rily for the discharge of civil & political duties. It is common  
to too many political writers to consider mankind as uniform-  
ly governed by interest & ambition alone & to resolve all their  
actions indiscriminately into one or other of these two principles.  
It might be easy to show that justice cannot be supported by  
interest & ambition alone under any form of government  
whatsoever a sense of duty or what is commonly called mo-  
ral principle prevails more or less among all men & the de-  
gree of its prevalence constitutes what may be called the mo-  
ral character of a nation. In every society there is a great in-  
equality of estimation as well as of property & enjoyment  
of the comforts of life now often more wholly determined by  
avarice & ambition as some writers would represent them  
& without any moral principle whatever they would be  
incapable of submitting a single day to any form of go-  
vernment. Because those who had less would immediately  
enjoy to have more & all things would soon be disposed  
of according to the will of the strongest the pernicious scheming  
Liberators who have renounced all moral principles

than by demonstra-  
ting the utility as well as the utility of moral discipline  
& the good ought to be clear & convincing in order to be  
a counterpoise against the ingrossing & conceivible



rapidity of men destitute of moral principle

Moral principles are the only guardians of property or  
well as of life of all the rights of men & the existence  
of many celestial society depends wholly on them. By  
means of moral principles one man can govern many  
millions & the minority of a society can control the ma-  
jority by having a friend & supporter of their authority  
in the breast of every man. The obligation of oaths was uni-  
formly proposed by the ancients to be one of the great sup-  
ports of civil society because without it the most solemn trans-  
actions of men would be quite ludicrous & uncertain &  
the security of their lives & rights at all times very pre-  
carious. The ancients universally considered religious  
belief & the sense of a deity to be essentially necessary  
in order to qualify men for being good citizens. That they  
thought that none could properly be such without it. Some  
of the moderns have in our times pretended to be much  
wiser than the ancients in this respect as well as in many  
others & have sought themselves to distinguish religi-  
on from morals & morals from government & thought  
they have retained the ceremony of an oath as a mean  
of binding men to their civil duties yet is no —



as such every man may put whatever sense he pleases  
upon the oath which he takes & may even disengage  
himself from keeping it because that would only be  
a certain mode of religious belief which could not sub-  
ject him to any punishment nor affect his privileges  
as a citizen The sense that all men must have of the  
obligation of an oath must depend entirely on the nature

religious  
belief because an oath is a religious bond & where there is no  
dedicated religious belief it cannot have the least tendency to  
bind a man of no religious principle & who considers all  
religious principles equally true or equally false may  
take contrary oaths without violating any of those prin-  
ciples that govern his judgment in the matter for if no  
thing is fixed with regard to religious belief in a nation  
or in the minds of individuals they will always have  
an opportunity of abounding in their own sense & will  
explain their oaths according to their humors or interest  
& probably make a jest of them altogether such licentious-  
ness of principle naturally gives up to revolt those many  
thousands of men in the state of Massachusetts who rose in  
rebellion against the laws of their country how no doubt all

of them taking the oaths of fidelity required by the consti-  
tution of their country but they used this liberty in  
putting such sense upon it as justified them in their own  
opinion against the liberty of explication with regard to an oath  
in of very great extent these men did not say that their  
governors had acted against law or that they had in-  
fringed that constitution to which they had agreed in  
common but by means of interest & ambition which are so  
much relied upon by some political writers together with  
loose principles they were led to violate their oaths  
to endeavour to deprive a government which they themselves  
had lately assisted in setting up It is true that govern-  
ment men

in a great part of the mem-  
bers of a state honor with some men may supply the place of  
honesty & interest with another sort may operate for some  
little time at least instead of a sense of duty but the  
continuance & even the operation of these principles  
is extremely pernicious There is a certain degree of depravity  
beyond which if the corruption of a nation ever reaches  
fourthly must immediately dispossess all political autho-



ity & union is founded entirely on a fiction in Law  
it can have no strength whatever except what it borrows  
from moral principles so that when these cease to have  
any influence with men they become quite incapable of  
existing in the order of a regular society & we have seen  
that the other principles of Interest & ambition upon  
which certain writers depend so much for the per-  
formance of civil & political duties instead of mo-  
ral principles are so far from being able to supply  
their place that their tendency is quite of an opposite  
nature & they only hasten the ruin of the society  
or throwing it into the hands of a Despot. It ought  
to be the care of all wise & good governors to use their

from such a degree of depravity as produces the disso-  
lution of order & the distance of any individual nation from  
that degree of depravity constitutes the exact extent of  
their virtue as well as the measure of the duration  
of their governments. It was an ancient & universal  
opinion till of late years that the study of religion which  
teaches men how to grow daily better was the most

official & only method for preventing them from  
growing worse accordingly all governments would &  
superstition religion as the great bond of society & the  
last & only security for the performance of civil & poli-  
tical duties on the part of the citizens but some super-  
lucal & unthinking men in our days imagine that  
they are a great deal wiser than the authors they  
pretend to have discovered that religion

~~except~~ the public  
who has no religion at all or the man who most consci-  
entiously performs all the duties that it enjoins & most fer-  
vently fulfills the obligations of it whether this opinion be a  
symptom of a dissolving of society would be worth while  
to inquire did our plan allow of it but as this is not  
the case

the words great or small were ex-  
plicit on this principle & a society that is united or organized  
upon the admission of it does not appear to promise any con-  
tinuance for let us suppose that there were only two hundred

that were bound to keep our contracts & the other pro-  
posing that it is lawful to break our contracts now  
suppose these two religions rest entirely upon a level



universal equal toleration in case for any person  
though he were not a philosopher he for which of you  
would immediately get the ascendant in a state &  
intently abolish the other those that thought themselves  
bound by no contracts would despise the laws & prevent  
their execution

their lawful debts & the state must  
immediately go to ruin as it could not ever for a  
little time survive such an ascendency of licentiousness  
our uprightness & moral honor moral principles therefore  
are the only cement of a society & whenever they are given  
up or what is the same thing mutually held to be en-  
tirely different & on a level with their contraries the  
Society must fall in a little time as long as  
lack of faith is reckoned generally disgraceful mo-  
ral principles cannot be.

to be infamous no oaths can  
any longer bind & society is very near its end. as I men-  
tioned in the former discourse to explain in what man-  
ner the notions of the French nation contributed  
to their happiness the same notions contribute equally  
to the support of society If a strict regard to honor is found

misery in order to please the Prince it will immediately  
become a national

among the French according to the obser-  
vation of Ausonius who himself was of that nation -

"Regis ad exemplum totis componitur orbis

In like manner of cheating lying & cowardice are  
universally considered as disgraceful by those who are  
respected & honored in society they will soon be generally  
considered as just by all the rest in order to be esteemed  
by those whose esteem is supposed to be worth achieving  
but if a society have no common duty of esteem  
of one another

in this case it is not conceivable that they will be un-  
der any other restraints on their transactions except a  
regard to their own safety & if they think they are  
secure on account of the weakness of authority & neg-  
lect of the execution of the laws it is scarce conceivable  
how they should be restrained from any crime what-  
soever which they have an opportunity of com-  
mitting nor base minds who are incapable of  
find that



leaves nothing but a  
fear which is the governing principle of Despotism  
can restrain men that an depletion of moral principles

in a moral republic were to endeavour to erect any other  
form of government among them to keep them in order  
after they had renounced moral principles they could  
not possibly succeed in that attempt fear is the only  
principle that can command that jealousy which has been  
excited by the experience of falsehood

again or such  
a republic together with virtue so that interest & fear  
are the only principles that can left to govern the mind  
where virtue is extinct accordingly we find that the  
subject of Despotism consists of men in chains in  
their governments & are governed by interest & of slaves  
who have no rights whatsoever & are under the sole  
dominion of fear the most liberal form of a free re-  
public can be of no use or continuance among a vicious  
people for as probability is the prevailing current of —

or confirm itself whenever it is interest interest & has an  
the only remaining principle that can keep men together  
under any form of government & these we have seen lead  
immediately to despotism Dr. Adams supposes interest  
to be the sole foundation of the American constitution  
but he is certainly mistaken unless he only means that  
those of the people who oppose despotism were convin-  
ced that their independence would be ultimately for  
this.

that they are founded in moral principles &  
a conviction of the just rights of men as worthy of being  
defended at any sacrifice & of interest had been the sole  
principle of those who shook off the dominion of G. Britain

their property or many of them did much  
more magnanimous views than interest are certainly neces-  
sary to induce men to make such sacrifices & to exert such  
efforts

the rights of mankind are absolutely  
neglected for those who expose themselves to danger or put  
forth the life of their property for if every man had only  
been moved with the thought of what he might



in the beginning of the contest that he was for us & that when  
the it was revealed from heaven that 999 men out of every 1000  
were

of private interest could never lead men to such  
such addo. It must have been a sense of honor & virtue & be-  
nevolence to mankind a zeal

V

The American revo-  
lution or is evident from the manner in which it was  
accomplished & it is these principles alone that can con-  
stitute to support it or indeed any form of republican go-  
vernment

secured for gained  
a much has been lost by it but of the revolution which  
was undertaken for supporting the right of men & for pre-  
venting the human character from being debased by slavery  
continues to be supported on the same honorable principles  
It will then be likely to be permanent as well as  
profitable in the end

Lecture 103 - April the 22. 1789.

The authority of the law & the power of magistrates

ultimately upon opinion whenever the public belief of that  
system of law which constitute their form of government is  
shaken their passions & interests will suggest many excuses for  
withdrawing their obedience from a pretended friendship for us.  
This form often covers a total atheism of all government what  
power now a free government as such ought to retain the  
affections of the public more & longer than any other but when  
a people come come to alter & dissolve a republican govern-  
ment there is no sort of probability that any other would con-  
tinue them the particular tendency & capacity of any form of go-  
vernment to support itself & to enforce its reverence among  
the citizens ought to be reckoned among its advantages as  
well as its tendency to secure the rights of mankind whole.  
At last a government may be said to be very corrupt when  
all its principles & constitutions are constantly applied only to preserve  
its form as the form of a government is but a secondary end of it  
& the preservation of the rights & promoting the happiness of men  
is the first end of government with respect to which all forms  
are only means but when the preservation of the form is the  
chief or only thing attended to in government it has al-  
ready ceased to be of use & therefore a sudden change this  
however is constantly the case with regard to despotism  
Every thing in it is arranged so as to fulfill the will of the



Deport & to secure to him the absolute possession of the state  
as he wishes. The happiness & even the existence of the sub-  
jects being no farther considered or regarded than in so far as  
they may be means to contribute to these ends. A good govern-  
ment is that which supports itself by actual experience of  
its utility & which stands on mud of no terrors for opposi-  
ing its form. A good government may be supported by  
force against internal as well as external enemies may it be  
the very disposition of a good government that it is an institution  
intended to use & apply force in support of the rights of men when  
any form of government is held to be a good one by the people it  
cannot be changed till a change takes place in their opinion  
but there are many causes which may sometimes bring a-  
bout this in a very short time. The possession of power even for a  
short time is found to have a tendency to corrupt & intoxicate  
men if they are not possessed of strong moral principles &  
animated by a true zeal to serve the interests of their coun-  
try & according to the observation of Cicero long ago the contem-  
plation of the shortness of their time renders bad men much  
more eager to make the best use of it for their own ends &  
to play the tyrant to a great extent while they are in power  
because they are sensible that they will not have an oppor-  
tunity of atoning that part long. The shortening the du-



ration of power in the public is of no use either for the  
preservation of liberty or the other rights of man unless the  
citizens are careful to choose men of virtue & moral principles  
because in the hands of bad men the rights of mankind  
must constantly suffer & all political checks & limitations  
of power grow to be of no avail on the other hand liberty  
what is the power of disposing of ourselves tends no less  
to corrupt the greatest part of mankind to flatter their  
vanity & to make them much less sensible of the rights of  
others as well as to desire a change of government from  
wantonness or expectations of private advantage moral  
principles therefore are no less necessary to the citizens in  
general than to those who possess public offices as if there  
is little or no virtue in the Electors it cannot be supposed  
that those whom they elect will be men of a character  
opposite to their own there are certain institutions which  
may indirectly produce a want of moral principle an  
impatience of Rule & an incapacity of defending them  
Johns then we know that the Roman people lost all  
their courage & activity by loitering in the Theatre  
& bestowing their whole attention on the public amuse-  
ments of that & the Circus the Greeks had already



lost their liberty in the very same manner In more  
modern times we find that the Spaniards became effeminate  
& inactive by the possession of great quantities of gold & the  
indolence of their Bull past which made them lose all their  
valour.

or of activity especially draws after it the loss of liberty because  
Despotism is the only state in which indolent or bad people can  
be kept in any order. The state & condition of a people

by a great number of circumstances but  
chiefly by their capital subordinations the extent of their  
Country the degree of civilization to which they have attained  
& their disposition & capacity with regard to useful arts  
Capital subordinations are founded on distinctions either ori-  
ginal or adventitious original distinctions are the difference  
of Capacity disposition & some adventitious distinctions a-  
gain arise only from both the former original distinctions  
make their appearance & prove to be useful in unsettled  
times rude ages & the first beginnings of government -  
Several of these such as courage sagacity humanity jus-  
tice eloquence & dexterity have at different times led their  
possessors to sovereign authority or public esteem & these  
qualities are so popular in disorders that even those who have  
none of them always pretend to have them in order to  
imprint themselves into the esteem & favor of the

public the Pomp & gravity of Things and designed to  
impress the Public with an opinion of their wisdom &  
the

these means are generally supposed to be habitually occupied  
with great matters whereas private that lay aside their gra-  
vity as Nero did & added themselves to mean pursuits or  
put themselves on a level with ordinary subjects soon lose their  
authority & become contemptible to those very persons whose  
favour they strive to gain advertisements distinction may arise  
from compact authority or opinion the 12 men whom the  
nucleus chose for his Councillors of State belonged to the  
very same mass of subjects as the rest of the people & it can  
hardly be supposed that their wisdom or virtue or the abi-  
lities & acquisitions of their minds were any way con-  
siderable yet mostly by being joined to the rest & by  
being clad in a station that was supposed to merit  
respect they learned to refer themselves to behave  
in an orderly manner & to act the part that was assigned  
to them at least with external propriety & dignity anx-  
ious to maintain the reverence of the public they watch-  
ed over

to appear  
something superior to other men & it appears that  
they imitated the spirit of their station so effectually that

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positively were held to be of a higher rank than others &  
the notion of y<sup>e</sup> elevations soon inspired them with high  
thoughts & soon afterward with contempt of inferiors  
In like manner the thoughts the more consider y<sup>e</sup> s<sup>c</sup>  
dors of free-booters yet because they served on horse back  
& were elevated near them put above those who served on  
foot & had thus hopes built up them by the public  
immediately imagined themselves greatly superior to  
the common sort of citizens who served on foot & at  
their own expense artificial distinctions are of the great  
est use in society when they engage the vanity of men  
the pride of virtue & the performance of duty when the practice of  
any virtues such as truth or honesty is supposed to be indis-  
pensibly necessary for supporting a certain rank with pro-  
priety these virtues that are so dignified will be esteemed &  
generally practiced & when certain vices such as cowardice  
cruelty & treachery are supposed to degrade men & to  
degrade the rank which they hold the circumstances will  
operate to the discouragement of these vices & the practice  
of the opposite virtues artificial distinctions

opinion & connected with the  
practice of some virtues have often produced incentives to

worthy actions though in other cases they have only served to  
enlarge the sphere of misery we may say of adventurers honor  
what Homer says of Shame that it is of great hurt & a  
great advantage to men

" Doos el ardpas meyas

Edon

Even the Keroof order of

to their vanity because they saw the  
whole race of slaves beneath them & the privileges that were  
conferred on them by their political constitution were ample  
enough to meet their vanity though they had not seen a  
whole nation of wretches below them they elated the consuls  
& rulers & Edils they made or unmade laws & they were  
exempted from capital punishment for any crime what so ever  
except high treason their rights of citizen ship were sup-  
posed to be so great that banishment which was only the  
consolation of them was considered as equal to death it  
would be very absurd to pretend that the Thoman citizens  
were not elevated with these.

Strength were not  
still men elevated by the preeminence which this political  
constitution gave them above their destination as well as  
government & authority is a mere fiction of law & custom  
but has always a wonderful effect when it is believed



inquiries it  
encompassed faces with the multitude & lays the foundation of con-  
descendancy & gratitude & grows an enrichment to hence con-  
rage & elevation of mind which lead to the most useful  
& splendid actions those who in the political arrangement  
of adventures or political distinctions are placed in a  
middle station so that they have superiors as well as inferiors  
have their haughtiness as much humbled by the consider-  
ation of the one as it is exalted by that of the other those  
therefore who are in the station are most likely to possess  
wisdom moderation activity & the spirit of enterprise  
so that their disposition is in favor of their morals as well  
as of their activity & exertion of the powers of their mind  
but a people who have only inferiors & no superiors are  
unavoidably hurt by that distinction & both their natural  
& moral principles must be injured in a high degree  
a nation which has no adventures distinctions & which  
at the same time respects slaves is not likely to sub-  
mit long to any form of government whatever such  
people being accustomed to command absolutely at  
home will be very little disposed to obey when they  
are abroad but every form of government unavoidably  
requires the greatest number to obey the weakness of a people

of their government to the continual hazard of being  
changed by conquest of any of their neighbours who  
are in a different condition are in the least disposed to  
harm them. The degree of activity & fermentation  
that sustains a nation may be reckoned a very  
material part of the state of it & to contribute very sig-  
nally either to the preservation or extinction of it. For  
the Romans by being divided into different ranks  
had always

an individual which kept the powers  
of their mind in motion & prevented that languor &  
stagnation into which the faculties of the human mind  
must necessarily sink when they have no objects of  
imitation. In a well constituted state there is a gra-  
dual circulation & change of <sup>as some of</sup>  
the citizens are always rising by means of industry  
& virtue while others are decaying & losing by  
negligence & vice now both these effects are highly ne-  
cessary for exerting the faculties of men & keeping  
their minds in healthful motion. The first of them  
encouraging the ambition of those who have much  
to gain & the other awakening the vigilance of those



any thing to gain or lose by war or civil war must soon  
lose its activity & be exhausted. It belongs to the health-  
ful state of a nation that it afford, both for exciting  
encouraging & keeping alive the ambition of men  
while at the same time properly & effectually secured  
if a state therefore afford no object of ambition & have  
nothing to encourage & reward the exertions of active  
minds it will be very easily conquered & none of  
the citizens can be supposed to have any great desire or  
eagerness for improving that which is become indifferent  
to each. It is impossible to conceive greater enemies to  
a state than those dwellers who attempt to force na-  
tion & to reduce the condition of men to a state  
of every citizen to an exact equality because this  
kind immediately to extinguish ambition & to render  
minds totally indifferent about the public from  
which they have no hope of ever gaining any thing  
the active power of the mind become totally  
relaxed when men have nothing to hope for &  
a free republic without dependence or difference of

condition is as deadly to the faculties of the  
human mind for this reason as the most  
despotic despotism as it tends to suppress the pro-  
duce of science & despair. To be without hope or  
fear is a state that does not belong to this life in every  
well constituted state. Therefore there ought to be a  
great variety of rewards for industry & virtue as  
by these activity is kept alive & because indolence  
easily snuff reduces a man to poverty & contempt  
This will be carefully avoided but this cannot be the  
case in a well regulated state where every one is equal to  
every other

activity when he can neither advance his own for-  
tune or reputation by it & it is utterly against na-  
ture to take pleasure in laboring for others on the  
other hand when men are made of losing their  
fortune or reputation or which is the same thing  
have none to loose one of the strongest restraints

there is neither any honor to be attained by the practice  
of virtue nor any shame to be dreaded by the most  
vicious conduct if men should shut their imagina-



them as much as they please  
wicked more than the citizens of a  
land regulated who had another character no portion to gain  
except impudence and idleness malice and discord might  
constantly prevail among them & all straining from all  
other causes farmers would soon strengthen a society in which  
no man had the least encouragement to labour being afraid  
of an equal

inactivity the healthful state of  
Nation is when the reward of industry is not too small  
as to discourage activity was so great as to encourage  
it in a little time by undervaluing it annua pay moderate  
wages encourage men to work but extravagant wages  
instead of encouraging in a greater proportion only pro-  
mote idleness & intemperance great fortunes sud-  
denly acquired are commonly hurtful to the public  
by the want of Economy which is commonly dissem-  
ed in this disposition who never knows labour  
in acquiring them thus it is commonly observed  
in England that when were any Debts that is  
servants of the India-Company little in any

to labourers & the high ones that  
they pay for every thing which destroys the morals  
of the tradesmen & labourers in their neighbourhood  
by rendering them haughty, idle & drunken a num-  
ber of such men as there in a country instead of  
encouraging industry

by its having too much fuel  
as well as by too little fuel. The people acquire sudden  
fortunes being generally without education & void of  
taste associate with all the idle & worthless persons  
that they can find so that their expenses however  
great not being directed by good sense restrained by  
moderation or ordered by taste contribute nothing at  
all to the improvement of their country either  
such a fortune is at an end which sometimes happens  
very soon it leaves the neighbourhood much more helpless

worse situation than it was before. Sudden fortunes  
therefore are justly considered as hurtful to a nation.  
because they lessen the quantity of industry & frugality  
in it & encourage the superfluous more than the



to fear they are in the most favorable state with respect to  
war & happiness but if either their hope or their fear is ex-  
tinguished

immmediate consequences The want of  
the restraints of hope & fear is precisely that which makes  
a defect cruel and a slave indolent & desperate The slave  
has nothing to hope for & the defect has nothing to fear so that  
the members of a civil nation

& of Slaves but although advertisements  
descriptions may be highly useful as incentives to honorable  
action & restraints from meanness or vice when they are not  
too numerous or too easily acquired yet when they extend to  
a great number they tend to extinguish industry to encour-  
age sloth & to render their possessors infinitely more  
vulnerable to oppression

deaths of Prisoners are Prisoners there will be sometimes 30  
29 of whom  
must necessarily be beggars unless they are enlisted in the  
service of some other prince the brutality of Poland compri-  
sends more than 100,000 families which cannot all be  
employed in many of these soldiers consequently are in  
service or obliged to follow the meanest trades The mer-  
chants at Danzig have generally Polish & German

then these servants stipulate that they shall have li-  
berty to attend all the

of Demand the arguments shall  
be at an end they choose stipulate that their masters  
shall never whip them except upon a carpet which makes  
little difference in the operation & its effects. These circumstan-  
ces under the influence of nobility & ridicule & totally  
ineffectual for the end of its constitution. It is somewhat  
surprising indeed that in

people should  
be left to languish in poverty & indolence merely be-  
cause having heard the misfortune of being defended

If the present Emperor who possesses great discernment &  
activity of mind could be able to rectify this abuse it w<sup>d</sup>.  
do him much more honor than plunging <sup>leaving</sup> the poor man in  
or promoting the interest of Superstition & infidelity -

Lecture 104<sup>th</sup> - April the 23<sup>d</sup>. 1709.

all

or existence of any political constitution or form of government  
can only be said hypothetically now such questions may be put



upon it diff<sup>r</sup> suppositions comprehending as many conceivable states of  
the members of a society the 1<sup>st</sup> supposition is that of a people  
perfectly virtuous distinguished from one another only by their  
original differences & forming states of small extent such a peo-  
ple on itself to govern themselves their supposition is far from  
being useless although we know for certain that no such society  
or nation ever existed on earth yet it ought to be the mo-  
del of all other societies here &c. being supposed to be perfectly  
virtuous & consequently not only susceptible but capable of po-  
litical happiness besides although no society can be supposed to  
be perfectly virtuous in a moral sense yet the existence of a  
people perfect in political virtue especially supposing it to  
be a small state is not especially impossible & from the  
members of a great populous state it might be possible  
to collect as many individuals as would compose a small  
one who should be perfectly virtuous in the political sense  
but whatever may be even the contemplation of perfect  
morals must be of the greatest use in politics as well as in  
the fine arts even though they should be admitted that no  
such model actually exists yet the men that any politi-  
cal constitution or administration approaches to such a  
model is the more laudable & excellent there must be  
natural deficiencies even among those who are supposed



to be perfectly uniform but these natural distinctions on  
account of the nature of the society would further be in-  
volved to guide on the part of their superiors not objects  
of envy to those who were without them no talents w<sup>d</sup>  
be abused or rewarded & no unfairness or illegal advantage  
claimed or allowed the citizens would mind every one their  
own business & be as far from encroaching on the rights of  
others as from suffering others to encroach on theirs they  
might consent to be governed either by the majority  
of their own number or to be represented occasionally by  
single men now to oblige such men as were chosen  
representatives to resign the sense of their own minds & to  
follow what is different from it or contrary to it would  
in this case be by the supposition a self denying vice for  
virtue because the person who is supposed to be chosen  
is also supposed to be possessed of perfect virtue or will as  
the rest & rather trust therefore among a people of per-  
fect virtue must be an absolute & unqualified one & the  
men would that a people as possessed of they men capa-  
ble will they be of trusting others as well as men I sh<sup>d</sup>  
not trust themselves whereas the less virtue that a  
society possess the less capable are they of trusting.



1  
This view of things suggests an argument of great weight against  
the opinion of those who imagine that a representative who is  
entrusted by his constituents ought notwithstanding blindly  
to follow their instructions or every thing entirely renoun-  
cing his own judgment we see that such a conduct is  
doubtless opposite to that

perfectly just & sound & that a representative is not treated  
as a wife or as an honest man when he is made the mere ve-  
hicle of the instructions of his constituents all the advantages  
that could possibly be gained by a judicious election of a repre-  
sentative are entirely thrown away according to this doctrine  
For there is no need of electing a wise man for a trust in  
which he is not to judge for or to determine for the people but  
merely to carry messages or to read

A common servant or a Negro might do this  
as well as the most able man of the nation a representative then  
for ought to be considered as an honest & wise man as it is  
only on the supposition that he is chosen & trusted that for  
his conduct ought to be left to his own judgment His consti-  
tuents may indeed inform him of matters of fact that he  
could not otherwise be acquainted with & may even advise

onally state argument

for do to our friends however much they may be our  
superiors or however independent they may be of us but  
still he ought finally to be determined

his conduct & the rights

of a society may be said to be betrayed  
if they are intrusted to a person who is not responsible for his  
conduct the want of responsibility is the widest outlet to  
corruption in a republic because in that situation  
men are free from the terrors & restraints of the law  
& disposed to follow their own passions without fear or remorse  
It is said that there are many such officers even in free  
states but if these states would consider what arbitrary  
government is they would find that it is only committing  
the care of the people to one officer who is not responsible  
& certainly can make little odds on the conduct of  
a people whether their tyrants are one or many it  
is therefore no less than sacrificing

officers who are not made  
strictly responsible for their faithful administration  
such a trust can only be made with safety to a  
person of great virtue but even in this case such  
a person would by no means choose that his virtue



subject himself to responsibility in the way of doing justice  
to his character now as all the society which we are now con-  
sidering are supposed to be perfectly virtuous every one is  
be willing to bear his share of the public burden & would  
renew in his turn that confidence & trust for which he  
was qualified by capacity & experience as natural distinctions  
must justify even on a society supposed to be perfect by vir-  
tues these would be readily acknowledged whenever they  
existed & being viewed without partiality blindness or  
envy

justice as they are supposed to have no adventitious dis-  
tinction among them to mar the effect, as to dem the  
best of personal qualities distinctions supposed without  
jealousy must without treachery or abuse officers command  
without suspicion & burdens supported without grudging or  
novelties or ranters in practice the easily conceive in  
speculation It is by no means impossible however  
that in a small republic especially all the officers  
might be upright & incorruptible & all the public  
Magistrates  
now very great  
republic should have the same end in view & endeav-  
ours to come as near them as possible the contempla-

tion of a perfect society  
so gradually that we are apt to forget where we are  
thus for instance we might suppose that in a per-  
fect government there must be wise laws & not  
too many of them & that these laws should  
be duly executed by upright judges & magistrates  
that their armies would be courageous

& yet for the most or-  
dinary enterprises but we would be forgetting all the while that  
a perfectly virtuous society would not stand on need of any  
executions against the commission of crimes & the abuse  
of power & consequently that all these institutions which  
suppose either of these could have no place among them  
being

The whole society might  
be occasionally or periodically assembled but any small  
part of such an assembly would act in the same man-  
ner as the whole being supposed to be perfectly virtuous  
the sole object of government in such a society would be  
to assemble & direct their force to national & wise  
purposes thus public assemblies would  
never by orators



to persuade them to what was against their interest  
faction they would effect such public conveniences &  
accommodations as defend fully & corruption have ne-  
ver suffered any nation to prosper they would have public  
treasures in reserve instead of public debts & would  
be at once qualified to relieve the oppressed & to strike  
terror into the oppressor Mr. Bayle has endeavored to  
armup himself by supposing an army of good Christians

never fight or that they would be  
easily overcome but surely if we suppose an army of good  
men in good cause & without

impulse & eager to execute

a good purpose united under excellent commanders &  
disposed

we cannot conceive

any army that would be more terrible consistent  
or operative than the Christian Church

of its union permanence & courage is represented in the  
song of Solomon to be terrible as an army with ban-  
ners now altho' no inter

has yet been

found to be perfectly virtuous yet we ought not to

plead any excuse from the impulsion of men be-  
cause there is no necessity arising from that

indolent

detached impudent or cowardly information & impressions  
an only defect which neither exclude the  
fact nor the prevalence of it but the absence of  
either altogether arises from quite another cause than  
the imperfection of man & is owing solely to the loose &  
prevalence of view which man however would reject dis-  
tinguishes with the first appellation of imperfection & infirmi-  
ty

to the community by reforming him-  
self we would very soon approach to a state very near to  
perfection & in which few or no complaints would be heard  
the second supposition with regard to the character & con-  
dition of states is that of a people among whom the virtuous  
& vicious are mixed who admit

degrees & form state of vic-  
tuous extent now this is not a mere supposition where  
the former lent a description of what exists every where &  
which indeed forms the most general  
mankind the supposition however must neces-



To

by a people among whom we are prevalent is surely most  
absurd when we must have a clear & undisturbed view of  
people before a state is capable of Democratical Govern<sup>t</sup>.  
because

were found for it was no use at all in a democratical  
Government & the state of the society in which the ma-  
jority is virtuous must necessarily be much the same  
as if there were not one vicious man in it as the laws  
magistrates administration & public manners w<sup>d</sup>.  
all be stained by the vice of the majority. & Re-  
public therefore tho' it is undoubtedly the cheapest of all  
forms of government with respect to money  
with respect to virtue

because it requires no less than a decided balance of  
virtue against vice & corruption & even a quantity of virtue  
equal to the quantity of vice that is in it would be of  
no manner of use with regard to its political state

or actual administration a very few good people in  
a state

answering either by getting into the administra-  
tion or by acquiring an interest with those who are in  
it may even one good man may be of immense service  
in either of these ways but one good man or even a confi-  
derable number of good men in a republic are no use  
at all nor can be even though they should increase un-  
less they should amount to a majority which is in  
the highest degree improbable & next to an impos-  
sibility. For this reason we find that all the good  
men who have ever served republics have either  
been put to death or banished or otherwise disgra-  
ced by those whose interests they had supported as the ma-  
jority even more on the side of virtue but of the major-  
ity even virtuous which

Representatives only their vir-  
tues & official institution might prevent crimes & abuse  
of power for we must certainly be constrained in order  
to the public safety wholesome laws that out such terrors to  
us as is sufficient to make even the vicious abstain  
from crimes for the most part having no respect



of complicity

ends line or in signification of magistrates an equal to so many public encouragements & premiums offered for committing crimes because whenever wicked men are sensible that they have little or nothing to

Secure the rights of others except their own interests or passions or the extent of their physical powers a strict execution of the laws is the most monopol & benevolent as well as most profitable to the public because it secures their safety & their enjoyment of their rights at the smallest expense of the lives & fortunes of men a good & wise government has always least to do & operates more efficiently on wicked men by its terror than by its actual operations wicked men are afraid of governors who are devoted to justice who give no quarter to vice & who are incapable of bribes & corruption whereas on the other hand a lax & insignificant government have always the most employment wicked men are not afraid of coming

administration which costs the greatest trouble & has the greatest quantity of employment is invariably that which does the least service even the smallest benefit to society the multiplied executions of London pro-

iced not only from the total want of Power & a superflu-  
tion regard to liberty but from the slackness of the ad-  
ministration & the numerous ways of escape which  
accommodate him in his power than by binding wit-  
nesses & having all jail attorneys to manage y<sup>r</sup>  
cause for them

private prosecutor & to  
triumph over them abuse of power are prevented either by  
trust itself by both -

When men have not too much power entrusted to them  
they may be less disposed to abuse it or less elevated  
with possessing it the oftentimes the case is quite other-  
wise but the most effectual method to prevent the  
abuse of power is responsibility for if any thing can be  
effectual to prevail with a man to be moderate &  
just in the exercise of power it must be his knowing  
for certain that he must give an account of it in a  
private station when his power being expended can  
give him no sort of advantage The Roman Repub-  
lic had excellent laws de pecuniis repetundis

a trial at their turn either at the

of the



maladministration against. They were also  
obliged to produce a certificate of their good behaviour  
during their administration subscribed by the prin-  
cipal persons of their province

These means were effectual but  
when the contrary came to be the case wicked men were  
chosen who perverted all the forms of law for their  
own private gain & finally who opened all those  
that were able to accuse them kind corrupt judges & got  
craters of their own sort to defend their proceedings & a  
much delinquent then became too strong for the law  
& when he had taken his measures artfully could  
defy it almost in every case when ever money became  
the standard of esteem the fountain of honor & the  
chief duty of respect in a state it produces the  
most destructive consequences It alters & cripples  
laws blinds judges confounds witnesses & renders the  
most evident of crimes doubtful In short money  
is as fire to our country those who love it as reason &

justice is to govern the wise & virtuous. —

Lecture 105 April the 28. 1789.

Most of the ancients appear to have conceived that a democratical government could only flourish in the small states because they were wholly unacquainted with the doctrine & practice of representation all the citizens of the ancient republics commonly met & voted in person in their public assemblies for which reason Aristotle says that a republic could not consist of more than 50,000 citizens but by means of representation a republic may consist of many millions of citizens whose this manner may reap all the advantages of democracy so as more than to compensate for its inconveniences. Party is the chief plague of democratical governments this disorder may arise either from a real or imaginary difference of interests or from the ambition of private men who having misapplied their duties for public offices may endeavour to buy their partisans about them & to increase of numbers till an opportunity offers of getting into the administration the great inconvenience of party is that while it prevails which it generally does in republics public spirit is entirely lost & all the force interest & talents of the state are employed only to fulfill the purposes or to raise the fortunes of private men at the public expence while the real concerns



of the public are wholly neglected when parties are nearly bal-  
anced they may sometimes occasionally be useful as checks up-  
on each other but it happens so often that they hinder each other  
from doing any good to the public each party desiring that the  
public should get no good except by their hands so that in this  
manner the public is benefited by neither & indeed the  
history of most republics contains little else than an account  
of the conflicts, jangling, & violence committed by different  
parties in their turn against their adversaries so that any little  
private happiness appears to have been ever enjoyed in any of you  
the best men of every state were commonly the worst used & in Athens  
one of the best of these republics a conspicuous character was a crime  
which was liable to be punished by banishment which they  
called the ostracism This impossible to conceive a greater stain  
on republican government than the history of Aristides who  
passed ostracism for the defended regulation of justice &  
uprightness of any thing can expose any form of government  
to better disgrace it must be when it makes it a crime for  
a citizen to be just & upright yet the favorable opinions of  
republicanism to maintain the rights of mankind has his  
share supported its reputation against the very unfavorable  
impressions that arise from its actual history The Roman

Republic was a mixed Government yet varied its form at  
frequent times by the change of Consuls

of this Decemviri The Dictatorship  
which was devised as a remedy for the slowness of popular govern-  
ment in times of danger & alarm proved much worse  
when it found a Sulla or a Caesar to ma-  
nage it The institution of this office was a capital blunder &  
operated as

State knave to enable a magistrate without responsibility is  
to destroy all the rights of men at once The power given  
to Consuls to choose a Dictator therefore was by far the

It may indeed be truly said to be an  
enormous error in framing any political constitution to insert  
any thing into it that may immediately produce its dissolution  
yet the worst system or plan of government always contains in it  
many seeds of dissolution & indeed as many as there are parts  
in its administration because every thing that is committed to  
men may either be done well or ill & every expedient for preserv-  
ing a government may be either attended to or neglected now  
the wisest statesman cannot pretend to eradicate any of  
these seeds of dissolution but only endeavour to prevent their  
growth & to delay their operation & tendency to alter the



Ignorant men  
indeed who have no acquaintance with human nature  
who consider matters of government only upon paper  
uniformly persuade themselves that all the tendency of  
a government to dissolution may be removed by check-  
s & counterpoises or other projections in the frame of it &  
which they foolishly dream of a constitution that is abso-  
lutely incompatible a thing  
to this world. There are very many causes that may easily  
dissolve regular or any other form of government but all  
of them arise uniformly from a want of virtue in the peo-  
ple a Republic may be overruled by the venality of its  
legislature who may be bribed either by a rich citizen of the  
land at the same time popular or by a foreign prince. It may  
be destroyed by the ignorance & incapacity of its  
legislature who from ignorance of human affairs may  
ought to provide for its defence & expose it as an easy  
prey to the first enemy that shall choose to invade it  
one of the greatest dangers to which this country has  
been exposed since its independence  
ignorance of its legislators on  
this very head being generally men of that description

a Republic may likewise be conquered for want of har-  
mony in its members & one party may call in a foreign  
army to enable them to destroy the other. It may likewise  
be starved for want of revenue having no constitutional  
power to make its laws. Spiritual all these dangers have  
constantly hung over this country ever since its independ-  
ency & any measure to remove them are yet to come  
a Republic may likewise be divided by foreign measures  
especially when divided within itself & if no one power  
were able to reduce it might be partitioned among several  
powers or it may end in an anarchy occasioned by  
the violence of parties so that it would then be the prey  
of the first overbearing party may likewise divide its  
strength & territory by making more independent states  
out of one so as to make it an easy conquest to a pow-  
erful neighbour but what is least probable though most  
generally believed & indeed the only thing that seems  
to be doubted is that a powerful & popular citizen may  
raise a party that may enable him to assume an  
absolute authority & the citizen might be obliged to



her Tyranny Indeed any power or order in the state may cor-  
rupt become the instrument of its dissolution for that power  
that is necessary to be committed to rulers in order to enable  
them to protect the rights of men need only be turned into  
the opposite direction in order to destroy them but a great  
Republic can commonly perish only by its own hands

"Altera pars locutus nullus cunctis ætas

"Sic Roma virtus ruit —

But this political suicide is extremely common in the  
world in so much that the most of them that have existed  
have perished in this manner Republican governments has  
been established in many parts where it is now no longer  
heard of & all the ancient republics having perished  
mostly by internal causes so that the few that remain are  
but of late date & when put together make but a very in-  
considerable figure in human society the republics of the late uni-  
ted states might make the greatest figure

of territory of  
which the experiments of real republican government has ever  
been made the world beholds with attention & concern the  
rise of so many republics at once in an enlightened age &  
amidst so many circumstances that it will ma-

naged might tend to their prosperity but as the ground on  
which they stand is quite new & as they are destitute of  
these defenses of navies & armies that other nations  
possess besides an appeal to the arms of an old  
State

which would put their men with great pleasure the  
other states of Europe must be supposed to be held with  
great curiosity & attention the conduct of these states  
as the world has never seen so large an experiment  
made upon the strength & duration of republican  
Government these nations in Europe that our friends  
have been much interested already by the great folly  
of our conduct since the

& honor which have been sacrific-  
ble both in the conduct of states & individuals & those who  
had argued most favorably concerning our affairs begin  
much

in our favor The second part of the above supposition name-  
ly of a mixed state consisting of citizens & alien citizens is,  
that of

or are exceedingly doubtful whether they can retain  
if their condition may be settled either for an aristocracy a mixed



monarchy a people  
divided into two classes may be fitted best for answering  
the higher class might choose a certain number of members  
to compose the legislature & other officers of government &  
might make such laws concerning administration that  
they as might appear most equitable & best calculated  
for promoting the peace & welfare of the whole the  
political happiness of the subjects under this form will  
depend on this

the case however little this circumstance is  
attended to in all other civil forms an Aristocracy may  
either admit the lower class of citizens to form part of the  
government in the way of negative representation or a ca-  
pacity for particular offices or they may take the whole  
burden of government upon themselves leaving the low-  
er class only to enjoy the benefits without the care of it  
& this indeed would be the happiest form

because the lower  
class of mankind are certainly much better qualified for  
feeling the effects & following the directions of a good go-  
vernment than for determining or pronouncing concerning mat-  
ters of public utility or considering probable consequences -

or preparing against contingent Evils The Populace can  
have no idea of a state ever being in danger unless it is  
actually invaded nor of the utility of any measure of  
most of such a nature as to affect their senses they  
can scarcely judge of a man's talents or indeed make  
any distinction between one man & another except  
with regard to his love of money or his generosity they  
are likewise apt to admire a man who can talk ve-  
hemently & confidently for a long time without stopping  
but it is not very material whether they understand

providing that  
his conclusions coincide with their prejudices & even  
when they judge right they have often no wisdom or  
conviction that they have done so & they as often won  
to what is right in the way of blind confidence or sacri-

concep-  
tion of the necessity of public revenue & are commonly  
from enemies to a consideration of some because they know  
that that would deprive them of their negative

consider as the most  
precious part of their liberty. It is evident likewise that they  
know not what it is to sacrifice private convenience to  
public interest & are apt to give counsel only when it



the event now  
for these & the like reasons might be thought fit to  
order an answering to allow no share of government to the  
without

any share in making or executing them this must certainly  
be a most morose & tedious business & easy circumstances if they  
are induced

business of government than the ordina-  
ry class of people can be who can afford only to bestow a little  
time on the acquisition of knowledge whose wisdom was all  
born with them & whose talents for public business  
must therefore be supposed to be very small besides vul-  
gar souls who exalted to places in government become  
quite giddy

in commendation & censure & either to  
do nothing at all in the way of their office or thro'  
ignorance or passion to do what does not belong to it  
some experience of the world & some acquaintance with  
human nature & affairs are necessary to qualify a  
man even to talk rationally concerning government  
but much more of these are needed when he is to  
be concerned in legislation & execution  
foreigners he would

make himself

of his prejudices & the grossness of his  
ignorance but even with regard to internal adminis-  
tration the common sort of people are generally enemies  
to all

they have seen them  
& that nothing can be done which has not been done al-  
ready The knowledge of other times ages & countries is  
necessary to enlarge the mind to free it from local  
prejudices & to make it more largely acquainted with  
human nature & the sphere of possibilities but igno-  
rance sometimes leads men sometimes to attribute

them to those prejudices that men conceive in favor of their  
own country often they are generally apt to over rate  
their powers thus an Englishman no more doubts that  
one of his countrymen is

greatly less to make one man

besides the  
favorite object of the English vulgar & ever since thus an  
effort

now an answering cor-  
ruption of men of real as well as of relative dignity in-  
duced with wisdom experience virtue & honor. Cha.



very necessary funds

might take their turns peacefully  
in government according to a fixed plan & by good laws  
& institutions & upright administration might make  
a people much more happy than if they had been go-  
verned

our plan is either will or wisely done though  
we are generally disposed to be most gladd with it they  
might likewise maintain the authority of the laws at  
home & the honor

but the great  
difficulty in execution is to secure a good opinion of the  
administration & an uniform submission to their au-  
thority men have always had an antipathy to be go-  
verned

inferiority in those who pretend to be above them  
among a number of equals it must always be difficult  
for those in administration to procure respect among others  
or to make them comply with the orders of government

who govern is very necessary in an antient  
children have not more need of being kept in subjection  
by the rod than grown men by the scepter the mace

his Court the solemnity of his appearance & the attendance  
of his servants which secured his respect with his subjects & con-  
stituted the strongest foundation of authority

Lecture 106<sup>th</sup> April the 23<sup>d</sup>. 1709 -

2d. form of government what power can wholly  
depend on  
e regard to exterior The lawyers say that  
the forms of judicial proceeding are the robes of justice which preserve  
in due respect & protect it from contempt & citations but the admini-  
stration of justice is but one mode of exercising authority In all  
the acts of government gravity solemnity & an attention to order  
ought to prevail The use of external ceremony is to attract at-  
tention to prevent insult & contempt & to excite men to reverence  
& obedience It is no disparagement to human nature that we are apt  
to be affected with external signs let any man examine what  
passer within himself & declare whether he is affected in the same  
manner with the march of an army or with the motions of  
a mob or of a drove of cattle he will find that it is impossible  
for him not to be inspired with respect for the one & with contempt  
& dread of the other It was a clear proof of Don Quixotes having  
lost his senses when he mistook a flock of sheep for a great  
army of Began Knights The equality of men's stations needs



in general that an affixed with order solemnity & exterior grandeur & the more taste & refinement that a man possesses the more he will be affected with order & proportion & regularity in every thing. The form of external ceremony is so great that those religions have always preferred their form the longer we made the most use of it. When I have debated indeed whether ceremonies can be properly adjusted to religious affections without attracting too much of the notice of the worshippers. Some have asserted that their devotion is heightened instead

Others again have contended that devotion being devoted to an invisible object must be spent devoted or misdirected by every thing that is of a sensible nature & therefore have contended against human ceremonies or worship. They take notice that in the pagan religion the people were never able to distinguish between the contrary. The Populace always held the image & the duty to be the same & that when the one was removed the other necessarily went along with it. Hence Cicero introduced the Sulpicians complaining that since to place to in their misfortune Lucius Verus tho't a man of very great piety had ear-

and them all with them to them but however much  
some facts may differ from each other with respect to  
commonness all of them have adopted music & the order of a re-  
gular public assembly

or religious affluence The Quakers a-  
long attempt to accomplish that by still solemnity & silence  
together with inward meditation which others aid with music  
& vocal addresses to the Duty The late Mr. Hume who as  
an Infidel may be supposed to be a very impartial arbitrator  
in the controversy

armonious but he says that it is on account  
of that tendency to draw off the attention

immortal being to the constitution of  
the proportion in the arts of painting Sculpture music  
architecture &c that his defenders really in favor of those  
whom they design to condemn

Simple & suitable indeed  
to the fundamental nature of that awful being whom  
we worship but very unsuitable to man  
most affected by the ob-  
jects of his senses for this reason he commends the worship  
of the church of England & that of the Roman Catholics  
as excluding well for diverting the minds



Being con-  
sidering y<sup>m</sup> more agreeably in contemplating the effects of  
the fine arts now the  
Magistrate would certainly  
by need the aid of ceremony to distinguish him from others  
in the execution of his office as well as those of the other  
forms

equals but may lose sight of the ordinary talents & condition  
of man in the solemnity & pomp of the magistrate. Exterior  
respect is so necessary for the officers of every government that  
when it is gone government is gone & the magistrate has  
no more power than any other person. Aristocracies may dis-  
solve by division among the rich & each party engaging  
a part of the people to support their respective pretensions  
or by the interest of a neighbouring Power with the peo-  
ple whom the rich have made themselves generally  
odious

getting a majority of the people on his side to erect  
an absolute monarchy in his person or one faction may  
destroy another or the people may or expel  
the prevailing one from a regard to the losers. A Magistrate  
interested in the ruins of an antient must be of the  
most hard refusing certain privileges to the remain-  
ing nobles as well as giving the people in general the  
greatest share in the government. The Magistrate of Hol-

land in order to preserve the people  
Stadtholder to represent the supreme  
power & to be the principal executive magistrate in  
the State

the of a permanent or hereditary  
executive magistrate would never be admitted & the ~~effect~~  
existence of such a magistracy  
would not be agreeable to the spirit of  
the people but would naturally excite apprehensions of  
tyranny commercial nations of a small extent are prone  
the result of dissensions that arise from the grant of  
art & unequal distribution of property best suited to  
aristocratical government or to that of a mixed Republic  
however paradoxical it may seem to people possessed of

D<sup>r</sup> Adams's  
opinion that the way to lessen the influence of men of  
aristocratic disposition distinguished abilities or great  
fortunes among the people was to throw them together  
into a society by themselves where their different inter-  
ests & passions might serve to balance each other &  
they might be considered as separate from the people  
at large the knowing men of these dispositions together  
into an order by themselves whether it is considered as



drained from their influence with  
the people. This very idea is well known in the English  
history & has been applied & realized more than once  
by intelligent states men in that country when the influ-  
ence of Mr. <sup>in the house of Commons</sup> became dan-

gerous to the crown in England. Administration was very  
much at a loss how to proceed with regard to him because  
he had it in his power to cross all their measures by the  
Lord Oxford who had  
himself been long

Strong which was afterwards made public con-  
vinced her majesty that the only method of getting rid  
of this dangerous man

Lord which would make the  
people immediately forsake him  
& Mr. <sup>was made</sup>  
Earl of Bath which put an end to all his popularity  
& influence at once

who was then called the great com-  
moner could do every thing that he pleased in England &  
by his great influence with the people determined the House  
with the whole family a title was just offered to his wife of

looked so well the latter was soon commensurated to himself  
it had the desired effect Lord Chatham became a man  
of little consequence at Court & Mr Pitt was instantly  
forgot even his eloquence appeared to have forsaken  
most were no longer Catholics of. <sup>with astonishment</sup> If it is not thought fit  
the inferior class of citizens should be degraded of all share  
of government under an aristocracy they may have a share  
of the Nobles & they being entrusted not with an active part in  
the government but only with the choice of those who are to  
act for them an aristocracy in order to support the nobles &  
against the prejudices of the people may assume them in  
such a way as they think safe into a share of the go-  
vernment which will contribute

have lasted by interesting  
greater numbers in the support of it In general it may  
be affirmed that all the forms of government are strength-  
ened & preserved by the mixture of others & the most mix-  
ed government which parties is much the strongest  
mainly in this view of opinion that a combination of all  
the 3 simple forms in equal portions with a common re-



Suppose however that such a form of government  
though truly excellent could not be lasting but the  
history of England has convinced the world that a  
mixture of all the 3 simple species of government is  
exceedingly well calculated

unequally predominant in the mixture  
at different times & but the great

did not attend to or forget to insist on  
its power to comprehend & attract men of very different  
temperaments & modes of thinking the truth is that  
those who agree in exhibiting the mixed form of the English  
government do it from very different reasons & views  
Some admire & approve it considered merely as a monar-  
chy when the influence of the crown under the splendid disguise

Government  
& by comprising all kinds of offices determines the choice of re-  
presentatives in the elective part of the legislature others & a-  
gain admire it as an assembly in which a man suppo-  
sed dignity as well as his property is considered & represent-  
ed & secured by

concerning scandalum  
magnatum by which he can obtain large damages  
against any person who shall be hardy enough to

say any thing  
character & when a man of a certain rank can de-  
mand an office of his sovereign when he pleases  
can propose an hereditary state in the legislature &  
signify judgements of

to his family then are man-  
ny others again who admire the English government as a republic  
but in what a small portion is sufficient

of the house of Commons -  
then the whole people are supposed to be represented & the  
measures of the king & ministry are carried

on his side may  
defy the King & the Lords while he adheres to the prin-  
ciples of the Constitution as Mr. Walker did for 11 years to-  
gether & thereby

than ever he could have expected from  
the crown according to the Pathology of the Antients there  
were 3 diff<sup>t</sup> humors in the human body each of which  
by its prevalence constituted a

division thus Ptolemaeus always  
looked of Choleric sanguine & phlegmatic habits &  
they derived almost all diseases from an alteration  
in the equilibrium of these humors or too great prevalence



That the legislative executive & judicative  
powers of a state are analogous to these humors in the  
Body as well as to the 3 simple forms of government &  
that the health soundness & life of a state consists in  
the equal temperance & adjustment of these 3 & in this  
depending a mutual negative on each other by w<sup>ch</sup>  
means no one of them can destroy or overcome the other  
two It must indeed be acknowledged that in so far  
as wisdom & propriety of arrangement can contribute to the  
stability or continuance of any form of government this  
must be one bid for duration

of persons of any different sta-  
tion or mode of thinking & it is no defect in it that it  
is continually exposed to decay & dissolution from a variety  
of causes because the same arguments militate equally  
against the consolidation of the human Body

& uncertain duration  
now as the Body may enjoy health vigor & cheerfulness  
notwithstanding its ineffectual seeds of mortality

even when it every moment exposed to 1000 fatal acci-  
dents

# Lecture 107<sup>th</sup> April the 24<sup>th</sup>. 1789 —

As every form of government rests only on a fiction of law  
it may be easily altered by an alteration of the opinion of the people  
on which it must always depend so even whilst it continues its  
existence is always precarious. Mont Vottaw quotes it as a proof  
of the factious spirit of the English nation that even in the time  
of their greatest prosperity Scudder an illiterate pamphlet published  
which

new as all forms of government resting  
on a very momentous view the respect of despo-  
tism. Thus most governments outward situation is by no means exclu-  
ded from this danger & a person of good intention a sound understand-  
ing may at any time be so far comprised by the danger that the pub-  
lic runs as to be able to overcome it by many probable arguments but  
there are two sorts of causes from which any form of government may  
run a risk or be liable to dissolution one of these that are external in  
their operation & another of these that may be prevented by numbers  
of contrary causes with regard to the first suppose that the form  
of government was universally hated by the people this is a cause  
that cannot be disappointed but must infallibly & immediately  
have its effect but with regard to an enormous load of debt this  
is a cause equally sufficient to destroy the form of a government  
yet it is of that kind that may be palliated parried & the effect  
of it protracted to an indefinite time so while the interest of it



in paid while the of Rocks continues & while the  
people by the principle of commerce manufactures are enabled to  
bear their actual burdens no man can say how long this disorder may  
be protracted tho' being mortal in its kind it cannot be radically  
cured as then for political happiness under any form of govern-  
ment is merely a lottery & depending on a variety of causes & com-  
binations of circumstances which we cannot discern or foresee  
the lucky as well as the unlucky chances transcend our powers  
of calculation so that there is no dividing properly in either  
way the very case often exists which attracted Mr. Voltaire's af-  
firmment that in when it may be made appear by probable  
arguments that a nation is on the brink of ruin it may ef-  
fably notwithstanding so as the danger may not even be be-  
lieved, as proved by the greater number. In the beginning of the  
year 1756 the English nation were extremely unsatisfied &  
the state of their affairs around very disastrous events their  
ministers were incapable their navy & army ill supplied  
& every thing seemed to be against them at this time the celebra-  
ted Dr. Brown published his estimate of the manners & prin-  
ciples of the times which set before them the picture of their  
character & the danger of their condition in a very able & fine  
living manner his Book however was received with great  
rejoicing & excited a strong

contained a public affair coming at  
that time to be trusted to Mr. Pitt a great Enthusiasm was raised  
in the nation that they rose above themselves & made the utmost  
exertions to avert those dangers of which they had been warned  
they then began to discuss Dr. Brown's doctrine & to defend his  
argument & calculations tho' nothing could be more false  
what at the time that it was published & it had in a great  
measure the merit of excluding those expressions that rendered  
its productions abominable in like manner when the different  
constitutions of the American States were first published

concern among  
friends of the country abroad & many wise & good people were  
of opinion that the appointment of a council of Censors by the  
last session of A

convention besides the other singularities in its form  
might prove to be of dangerous consequence & expose them to the  
charge of a revolution every 7 years yet that period has once  
passed over without considerable harm & tho' the Censors

parties of the state who had both departed in very many instances  
from the form of the constitution though one of these parties  
took their designation from their pretending to adhere to it in-  
violably yet these observations were entirely without effect



followed from them & it may likewise be possible that a 2<sup>d</sup>  
period of years may likewise pass over without any revolution  
& that the form of the government may at least run no more  
in danger from this article than from any other cause whatsoever  
By states of greater extent and by experience that neither a  
mixed republic nor an aristocracy will suit this situation &  
the inclination of that people a mixed or limited monarchy  
will then be best for their circumstances & of this form the  
English constitution is certainly the most perfect & most  
capable of improvement without any alteration of its essential  
parts. The 3<sup>d</sup> General which are opposed by the 3  
different branches of the English legislature appear to ignorant  
superstitious officers to threaten every moment to arrest the  
operations of government altogether but this very multiplicity  
of their concurrence actually secures their agreement & obliges  
them to make such concessions to each other as may promote  
the common safety now the reason of these 3 negatives

any supposition that  
the Lords are wiser than the commons or that the King  
& privy council are wiser than both but they are solely  
designed for securing a proper balance of the 3 powers  
that none of them may be alone controul or have it in

the power to run the other Money be supposed indeed with  
some show of reason that the proposal of a negative by each  
of these three powers will produce a perpetual contention  
among you or a constant jealousy of each other but this  
this is true in some measure yet on the constitution matters  
it is absolutely necessary that all of them should agree before  
any law could be established

moderation & in an amicable manner  
each branch is obliged to take care not to propose or un-  
dertake any thing that may be probably disagreeable to the  
two others the absolute power of making peace or war which  
is granted to the King by the constitution is frequently  
balanced by the Parliaments proposing the power of Taxa-  
tion as well as that of augmenting continuing or reducing the  
army In like manner the House of Commons possess the  
sole power of originating all money Bills yet they cannot  
pass no law whatsoever without the consent of the other branch  
the Commons have likewise a power of impeachment  
but the Lords have the supreme power of Judicature &  
the King has the power of Pardoning so that all the 3  
have different powers thus we may be sure must agree at least  
the great inequality & disproportion of representation in the  
English House of Commons is entirely the work of time &



constitution yet in fact it has done little harm of any at all as the whole matter ultimately depends upon the

proof of this we need only consider the experience of this country since the late revolution. The representation here is almost mathematically equal the mode of election is perfectly free & the number of Electors much too great to be bribed yet the representatives that have been chosen in this country with all these advantages have never given any more satisfaction to their constituents than those who have been chosen in England when 6,000 individuals can choose a majority of the house of commons which consists of 500 members & 5 individuals alone can find 44 members to the Parliament so that equality or inequality of representation & a free & uncorrupted election have almost the same effect nay on the contrary there has been no rebellion in England for more than 40 years whereas there has been one in this country a very short time after the peace & the people of England tho' equally free as those in this country yet do not complain of those taxes that are made by representatives that are chosen by others while

complain loudly of the conduct of those representatives that were chosen by themselves. So that freedom of election & equality of representation appears to be rather imaginary than real advantages & again

greatly instead of falling since the year while the credit  
of these States was engaged

almost to nothing by the art of specula-  
tion who discounted their Bills at 4 shillings per Pound

& would readily obtain it by the interest of their friends if the  
States were able to raise the money & for only this mar-  
ketable funds this

to whom they owe nothing & who  
were the instruments of breaking their credit & rendering it im-  
possible for them to pay their most faithful & meritorious  
servants

actual experience that the highest freedom of con-  
sideration the most perfect equality of representation & the  
strict freedom of Election are no certain securities for an  
unbiased administration & may have little or no weight  
for enforcing the form of government & indeed the characters  
of men are by far the best securities for upright administration  
& political happiness for we see that England & America  
have both

account from the most corrupt administration  
the great national debt of England was contracted gradually  
by the representation of the people & the immense fraud of  
Congress was the avowed act of the representatives of the States



exemplation even from the very  
worst & most disgraceful administration political happiness  
then actually enjoyed by

different causes among which the form of their go-  
vernment appears to make a very mean figure & to have  
no distinguished share or influence on the other hand the  
character of the people & of those to whom they commit  
the administration

importance to their happiness than the esta-  
blishment of any form what so ever & we

government has no influ-  
ence at all upon those for France & Holland whose forms of go-  
vernment are very defective

a condition as England & America in which  
the form of government approach very nearly to perfection. In

of government if  
it could be decided in general we might pronounce with great  
certainty that that particular form which gave the greatest  
encouragement to public & private virtue is undoubtedly the  
best of all others because if public & private virtue are  
cherished & cultivated by a government they would react

stability as it could not possibly derive from any other  
cause or causes whatever mixed monarchy appears to  
be the best adapted to those nations where the aristocracy  
are the minority • which consequently cannot support  
republican government but in many of the circumstances  
of a people may gradually change some things that  
they ought always to make proportional changes in  
their form of government because when changes of cir-  
cumstances take place gradually as has been the case  
in France they are generally accompanied with cor-  
respondent changes in government but sudden innova-  
tion of any sort precipitate men into situations in which  
they are not equalised to act the zeal of nations for  
their favorite form of government is very remarkable  
the citizens are bound by oath to support it & an  
endeavour to alter it is high treason which is always con-  
sidered as the greatest of crimes in every state being  
supposed to be committed against the whole society yet  
notwithstanding of all these precautions we find gra-  
dually changing & when this is the case when all other



France & Spain have be-  
come arbitrary tho they were at first limited like the  
English monarchy.

by the public again the English maner-  
they may be said to have been perfectly absolute under  
Henry the 8<sup>th</sup>. Queen Elizabeth & James the 1<sup>st</sup> & would  
probably have settled in that form if the sons of Henry James  
the 1<sup>st</sup> had

known what was the condition to which they  
were reducing them now in all changes of government every  
man of virtue would desire to be satisfied of 3 several things  
1<sup>st</sup> That a change is lawfull 2<sup>d</sup> That it is necessary  
3<sup>d</sup> That the changes

propetible & practicable as well as lawfull &  
necessary & no good man will ever consent to any change  
on the form of a government unless he is satisfied in these partic-  
ulars hence the Tories in the late war who could not see  
how they were affected from their oaths to the government  
of G. Britain

met with it if too many of them had not display-  
ed such inhuman dispositions & been guilty of such bar-  
barous usages towards their neighbours as necessarily excite  
the indignation of mankind and oath of allegiance to appear.

icular form of government

the guarantee by being  
called to witness it & no man can be absolved from the obli-  
gation of this contract while he remains in the territory  
of the state

of protection but to pass from one form to  
another without conviction or necessity argues a most degraded  
mind entirely devoted to interest & ready for the commission  
of every crime when a government is thrown into sudden  
convulsion, so as to threaten

embarrassed how to act  
that he may do nothing that is contrary to his duty or  
unworthy of his character rather than an administrator &  
compelled by invaders cannot bend after they have left  
the territory & cannot afford even the show of  
a man of honor will rather die than betray his country  
& tho he may yield to a superior force he will never  
give his consent

by force fraud or villany small domestic  
disputations it is extremely distressing to good men how to  
act especially if the question is more obscure or doubtful &  
when it cannot be known or known on which side the  
majority will be found but without men are not at a loss  
on these occasions as they follow their interest & their passion.



It is a matter of great impolicy when the merits or demerits  
of a form of government come to be the object of general dis-  
cussion because very few are any way qualified to ex-  
amine them properly & many are waiting for occasion  
of this kind to promote their private interest by throwing  
every thing into confusion —

Lecture 100<sup>th</sup> April the 24<sup>th</sup> 1789 -

those that are engaged have their all at stake

We come now to a third supposition with a view to decide it  
is the best form of government & that is of a people on whose  
unity & sense of personal importance rather than their utility  
the state must rely for the performance of their civil & political  
duties & people amongst whom a continual advertisement  
subordination takes place without any example or any desire of  
equality such a people are not fit to govern themselves as  
the continual gradation of ranks which is supposed to take  
place among them must terminate at last in a prince or a  
monarch they require an absolute monarchy or a lord of  
universe & so on

Suppose applies very properly to the state of the na-  
tions of Europe at the dissolution of the Roman empire most of  
which immediately became monarchies either under their national  
kings or under the leaders of the bands of northern people who  
had settled themselves in various parts on account of the  
weakness of the Empire The same cause may in a great  
measure account for the prevalence of absolute monarchy  
in most ages & places of the world Those who have not vir-  
tue to govern themselves or to secure the performance of  
their civil duties must necessarily be under the restraint of



to turn heads of with a view of securing this subjection It is  
certainly for the good of mankind that those who cannot  
keep themselves within the bounds of their duty should  
be under constraint & necessity but it is a matter of less  
importance what the nature & causes of that constraint  
may be The fiction of law which is best calculated for such  
a people is that which supposes all power both legislative &  
executive to be in the Prince & that he can delegate the  
parts of it to others confining however the supreme power  
is always to himself The principle of fear is most operative  
upon those minds that are destitute of virtue fear there-  
fore must make one of the chief principles of their govern-  
ment but as an astute sense of honor may likewise be  
often found in characters that are destitute of virtue this  
too ought to be excited & engaged to secure their obedience  
The prince being by this constitution the head of the society is  
supposed to be the fountain of all honor this power is  
supposed to ennoble those who are employed in it & his dis-  
pleasure to expose to disgrace under a monarchy all  
rankings ought to be supposed to be interested in the honor  
& splendor of the thing which rather in monarchical states

in the fullitude of Patience the King is always supposed  
to be the author & guardian of the laws all acts of government  
are done in his name • offences are aggravated by being sup-  
posed to be committed against him the peace of the Kingdom  
is called the Kings peace & all the Breachers & disturbers of  
it are supposed to have incurred his displeasure The desire  
of pleasing the Prince as well as that of his safety & a sense of  
honor which is supposed always to be connected with the service  
of the Prince are therefore the two great principles of conduct  
under absolute monarchy & point alike at absolute obedience  
The Prince is always supposed to be in the right & those who  
oppose him to be certainly in the wrong & as he has the dis-  
posal of all places of profit Trust & honor interest as well  
as honor attach the subjects to his service The higher ranks  
by attending the Court & waiting on the person of the King  
have an opportunity of insinuating themselves into his good graces  
& the lower people are encouraged by the countenance & ap-  
probation & protection of their superiors The union of the  
Subjects in an arbitrary monarchy consists in that chain  
of dependance upon the Prince that includes every indivi-  
dual but great men in monarchies have often their peculiar



The Prince & his private dependants or  
feudal tenures served this monarch only when this Lord  
led them out & if he and the monarch were.

They generally thought that their duty  
obliged them to follow this Lord against him that sovereign  
though they did not intend to dispute his sovereignty the  
obligation which they imagined that they lay under

Lord was supposed to absolve  
them from the guilt of treason when he was opposed to his  
sovereign now it is impossible to imagine a better bond of uni-  
on than absolute monarchy for such a people as we are sup-  
posing to exist & if they were to endeavour to erect any other  
form of government it would rather be painful lasting nor  
profitable The grade of a hereditary Baron E.C. might dis-  
pose him to think that it was no disparagement to his  
dignity to submit to a monarch that he would naturally  
think it below him to yield to his equal or his superior  
The prudences & gradations allowed in common life  
lead to perform an ord  
remembering that which is supported in an Army by a grada-  
tion of subordinate officers & ought to command a great

Whom by superior & artificial sense of honor ap-  
ple that have notions of conduct or standard of Esteem can  
only be the subjects of a despotic power if they can really  
be kept in order by any government whatever we shall see  
immediately that it is not necessary to suppose that so-  
ciety for which absolute monarchy is fitted should be pro-  
cessively accustomed to extraordinary distinctions or actually  
under the pressure of a sense of honor lest barely that  
they should be capable of these relative dignities & heri-  
editary distinctions are the effects of monarchy & are commonly  
given to those that have the most habitual attachment to  
the interest of the monarch & the preservation of the order of  
society by a sense of her authority sometimes dignities serve  
to excite an artificial sense of honor & an equal improve-  
ment to those who receive them in absolute monarchy is  
least suited to a corrupt & degenerate state of morals it is  
certainly much better that men should have some principle  
of proper action than that they should have none at all so  
that altho an artificial sense of honor cannot be expected to  
constrain men from all vices yet it may be useful at least  
for restraining them from such actions as are branded by  
public opinion with the epithets of base mean & dishonorable



a partial plenty is hereby obtained  
belief - of a common religion which has  
in all ages except the present & in all countries except this  
been uniformly conceived to be indispensably necessary for pre-  
serving the order of society & securing the performance of civil &  
political duties. The belief of a common religion was very  
much esteemed by the ancients. It strengthened the bonds of  
a society by the solemnity of oaths, sacrifices & religious rights  
& they considered it as an offence against their God to insult  
the majesty or disobey the authority of the Prince. The sense  
of religion was supposed to influence & direct all the actions  
of the citizens & to defend & glorify the God was suppo-  
sed to lead them to seek the welfare.

Indeed the world  
has never yet seen or imagined a monarchical government  
without a common religion. It is true indeed that two imperial  
Princes of the present age namely the Emperor & the late  
Prince of Prussia in order to encourage  
toleration but it related only  
to mean persons & conveyed nothing except impunity. It did  
not enforce the principles of the common or established religion  
or enable the collateral patrons to fill offices of Government.  
In all these respects it left the established faith & its

Some moderns  
contend & have disowned that men may be very well  
contructed in society without any common belief concerning  
religion & that political union & the performance of civil  
duties may be secured without men believing any thing

absurdity

what fools have men been from the  
beginning of things in endeavoring with

falsehood? No recommend  
the truth when disowned to the belief of the public & caution  
them against error? what fools we say must

vast pains of human society  
can be as well secured & civil & political duties as well  
performed without any belief at all or with a yearly  
monthly weekly or momentary creed or by believing  
every contradiction so as to display in the strongest light  
the power of the mind to believe whatever it pleases  
If a steady or uniform belief be so bad or so useless a thing  
as this opinion supposes absolute skepticism or the belief  
of nothing at all must be the highest expression of  
founded



it were enforced or not is somewhat hard to imagine a father  
can make no distinction between loyalty & treason nor can  
he care in the least whether he commits this one or commits the  
other he must choose when it quite indifferent whether  
he keeps his promise or engagements or not either to the state  
or to private persons or whether he is just or unjust in his  
dealings the death & the life of all the citizens is quite in  
different to him & he cares not whether he contribute to the  
one or the other of these ends according to his examples he  
may do whatever he pleases

promises or oaths in consequence of the large-  
ness of his empire & the comfortable privileges of universal  
liberation in that his religious belief or duties would be a vast  
tempt to him he would rob the the public

Julius Caesar he  
would destroy by any arts that could be successful all  
that opposed his will & he could destroy the monarch  
too without committing the least transgression against that  
large way of thinking which he had adopted but monarchs  
would never suspect of such subjects nor put the least trust  
in them because

transferring that there is a God that his justice will  
punish evildoers that he is true & hates perjury & that it  
is not lawful for a man to pretend to have it in his  
power or choice whether to believe a God or not. The  
greatest security that the united states have against  
absolute monarchy is their great admiration of independ-  
ency & daily change of rulers which must make  
them utterly incapable of monarchy though it be that  
they have by no means the same security against des-  
potism

Lecture. 189 April the 25<sup>th</sup>. 1799

It is often observed in common life that the sub-  
stitute fills the room of virtue in many cases & that society has  
no other security for the performance of moral & civil duties than these  
artificial substitutes. Thus interest fills the room of Patriotism ma-  
liciousness supplies the want of zeal hypocrisy conceals the want of  
religion fear of punishment supplies the room of honesty ava-  
rice from the graspings of frugality & profusion accidentally pro-  
duces some of those consequences that might be expected from liberality  
& on this score the apparent actions of many men are not without  
reason suspected as counterfeits now in a people that require as  
monarchical government there is no better security to be found for



their performing those of a moral kind artificial principles  
therefore must be substituted in the place of natural & intentions  
must stand for realities in many cases but while every individual  
at all times only to what concerns himself the monarch for the preser-  
vation of his own person & dignity must attend to the public safe-  
ty & enforce public order now as all the greatness dignity & supe-  
riority of the monarch depends entirely upon the harmony activity  
order & continual happiness of the society consequently he has  
the greatest interest - of all in its safety preservation & im-  
provement being both the measure & the guardian of the law & he  
is bound to see to the administration of justice & to preserve the rights  
of men the judges are his servants & it is his interest that they  
be upright steady & just & because they are of his appointment  
he will be considered as answerable for their conduct & the public will  
be disposed to judge of his character by those of men whom he appoints  
to the different offices of government Honor ought to be their motive to  
induce them to represent the person & authority of the sovereign  
properly & dignity & honor ought to be his motive in choosing proper  
persons as he is sure to get credit for all the good qualities of  
those whom he appoints when a monarch cares for the peace well-  
fare order opulence & dignity of his subjects he cares for himself  
& his own family In order to be a good monarch would require a degree  
of sensibility equity justice & humanity that seldom falls to  
the lot of men & as so many have an interest in deceiving

him he stands in need of a degree of acuteness superior to  
them & to have information of every thing of consequence that  
passes in his Kingdom. The monarchs of Persia had certain  
officers whom they called their eyes & their ears because  
they depended on their information as we do on that of  
our senses but though the King is the fountain of honor in a  
monarchy they were not able to suppress these officers from  
infamy & hatred as they were commonly supposed to give  
much false information & to debilitate the spirits & betray  
the confidence of Transilvania in a monarchy as well as in  
that form of government there are multitudes who desire to shed  
the guilt that is thus grown & these must necessarily  
alter all the means that would serve to discover them-  
selves. As long then to punishment may were the in-  
formers of a monarch serve him only for a while &  
will often betray his interests if they can do so with  
safety & to their own advantage a monarch has rarely  
any friends though multitudes of dependants & therefore he  
is obliged to prefer those who from gratitude or a sense of ho-  
nor he thinks will have a regard to his interest although  
they may have qualities that render them odious to his  
subjects now the favorites & confidants of a monarch may  
be very haughty unjust & insolent to the subjects though  
the suppleness of their behaviour at court & their apparent



devoted only to the interests of the Crown may render them  
very agreeable their master. a monarch being constantly accus-  
tomed to the language of flattery & among them indeed very  
little chance of being informed of the truth in any thing &  
when he thinks that he has deforced a person whom he can  
trust & admit him to the enjoyment of power.

more than to others. The falsehoods which  
a monarch has daily represented to him by many of his subjects  
who want to make him the instrument of their revenge has  
a tendency to render him

& the daily impressions of this kind which  
an attempted renders it utterly impracticable for him to make  
particular enquiries for these must stop somewhere & it is  
natural that his doubts should be determined by those that  
are nearest him & whom he used to trust now a monarch  
must certainly be supposed to love & trust those most who  
appear to serve him with most respect & attention & those  
especially which give an establishment to his person & in-  
terest hence in the Courts of the East the Eunuchs of the  
Palace who performed the menial services that were ne-  
cessary about the person of their sovereign & who managed  
his pleasures & amusements were commonly the confi-  
dential servants of the monarch & had the greatest  
share of his favor & often being daily in his presence

having manifold opportunities of showing an attentive  
andit what their situation & power & thus keeping the  
Gates of his Palace gave them great opportunities of prefer-  
ring & they had it always in their power to admit or ex-  
clude whom they pleased & to give the sovereign full  
impressions of any man as they chose but the condition  
of mankind was necessarily miserable when govern-  
ed by officers appointed by favorites of the Court but in  
common cases a monarch influencing others must re-  
gard those who have served or are capable of serving him  
this grows a great hindrance of justice. To the reward-  
ing of merit and a monarchy a Prince may be very sen-  
sible that a particular candidate for an office is a very  
good man & extremely fit to fill it with honor yet  
perhaps at the same time he may be obliged to give  
up to another whom he knows to have neither virtues  
nor capacity solely on account of his connection w<sup>th</sup>  
some of his ministers  
informs us that Julius Caesar made his friends not of  
the best men in the state nor even of those whose persons  
& characters were most agreeable to himself but  
solely of those who could be most useful to him &



monarch appears to those who contemplate him at a  
distance to possess immense power & to be able to do  
whatever he pleases but if he would reign with comfort  
& safely he must be subject in the most things to the  
will of others he must retain his friends by favors & often  
follow their choice instead of his own. A monarch ought above  
all things to study civility & politeness because so many  
are daily expecting from him what only one can obtain  
& are apt to be deeply offended if their expectations are not  
gratified now if he does not attend to this the bestow-  
ing of places instead of extending his interest may only  
increase the number of his enemies as he must always  
necessarily possess a much greater number than he  
can oblige as among a number of candidates every one  
is conversant of his own merit & full of hopes of success  
it is a matter of no small difficulty for a monarch  
to refuse with a good grace & to have those well af-  
fected to him by hopes whom he cannot oblige by  
favors among the few qualifications belonging to a great  
ruler Charles the 2<sup>d</sup> of England actually proposed

with

often more agreeable than the grants & favors of some other Princes. As the interest of a monarch to engage in his service the most virtuous capable & popular men of his Kingdom but the great ~~and~~ difficulty

of pretenders now as a court. The proper sense of flattery a monarch cannot expect to distinguish his friends from others by the manner in which they express their attachment to him nor can he always depend on the account of the characters of men which he hears from others. Besides an attachment to his service is the quality that most appears most agreeable to him. This will not

Lewis 14<sup>th</sup> used to say that when he bestowed a place

on an ungrateful man, by the first step whom he had suspected by the last the person whom he had preferred for whom he had commonly such a good opinion of their own merits & service that it is scarce possible for the liberality of the prince even to come up to their expectations for life



place then at least that he has got only his due  
or perhaps something less & those who are refused a  
favor that they had asked are apt to consider the refusal  
as the greatest injustice on the part of the Prince  
& to entertain grown resentments against him on that  
score hence it has always been the policy of astute  
princes & ministers to keep those in hope whom they  
could not immediately oblige & to make them believe  
that their disappointment was as grievous to the Prince as  
it was to themselves sometimes indeed this sort of Policy

has left that after the rejection of 2000 ministers from  
their Benefices for not accepting the common prayer book  
he had personally intreated of the King to let them have  
a curacy only that he might have an opportunity of  
preaching the Gospel & the King the Lord Chancellor

& though the favor he solicited was so very  
small he was never able to obtain it seems very strange  
says Mr. Baxter that a man who had so great friends  
at Court as the King the Lord Chancellor & the Secretary  
of State should not have been able to procure a small

curacy yet says he they

their power to bestow it. There is

a certain degree beyond which if political lying & covert dissimulation is ever carried it becomes entirely ridiculous among other reasons which monarchs have for preferring particular persons or to attack to their prince those whose enmity might be dangerous to them so that the person who is actually provoked is not always, opposed or presumed more than the rest. The Court of a monarch is a scene in which dissimulation, impetuous enmity & rivalry are continually exercised in which the greatest art & the most perfect deceit are generally most successful.

honestly uprightness or friendship

"Exeat aula que aulæ esse possit" The inclination

to his favorites are studied with the greatest care & every  
new to no small wonder if <sup>for their own advantage</sup> amidst such a mixture of a variety of  
passions & such an opposition of inclinations

when so very little truth is to be had & that little commonly not fairly it is truly surprising that the Prince  
of government



though it is highly for his interest so to do a monarch  
in imposing Taxes ought to consider all his sub-  
jects as his children & to endeavour to acquire them  
as little as possible but what he has once com-  
manded he must execute with promptness as his  
authority is the sole guard of his dignity & must  
never be disappointed as to a prince who once  
possesses this authority to be

perpetrated will not continue long  
in the station of authority the same is indeed the  
case with those who are charged with the execution  
of the laws under all forms of government that power  
when the authority of government

the government may  
be said to be at an end & cannot continue long  
even in appearance unless it resumes the vigor of  
its authority while all the subjects continue to obey  
the

justly administered crimes are punished laws are  
imposed revenue is collected & in in short every act  
of good government may be performed to as great  
if not greater perfection under a monarchy than

personal virtue enough in those who are employed the  
subordinate ranks in a monarchy will endeavour to  
win the monarch's favor & to confest their own dig-  
nity by actions that are either splendid in them-  
selves or useful to the state whilst they are at the  
same time useful to the King

under monarchy the preservation of authority becomes  
an object to every one besides as the authority of govern-  
ment is the sole guardian of the laws which secure  
every man in the possession of his own rights it is  
every man's interest that this should be preserved  
under all forms of government without distinction

to the public except in so far as he actually respects & to  
authority prevail those who wish that it is liberty to live  
under a form of government which they can dispose with im-  
punity will find themselves greatly mistaken in terms of  
consequence when the majesty of the people in the worst  
examples of them

property they will then be thought too



• that whatever gives one man <sup>and</sup> ~~office~~ an

to day may give another person the same opportunity to cheat him to merrors or perhaps to deprive him of all that he has in the world there is nothing in what the divine right & necessity of government more appears than in the protection which it affords to every mans person & rights & the security that it gives against the avowed injustice & treachery or violence of others hence every good man will unwearily be ascribed to the authority of government which preserves him & all others as the extinction of it must be fatal to every thing that is dear to <sup>man</sup> ~~man~~ man

Lecture 190 May the 5<sup>th</sup> 1709. P. 1. Examination

The members of a monarchical State are drawn together & moved in a body not by their love to the community or to mankind but by their veneration for their common superior & their expectations from him as the source of punishment & honor. In Every society  
justice or love to the commu-

erty cannot be supposed to be strong enough in the generality  
of men for that purpose in place of there for a sense of sub-  
jection or Veneration for a common chief or authority is ex-  
cellently suited for that purpose. Sentiments of Esteem alone  
give elevation & regularity to the minds of men & a person who  
can esteem worth real or supposed & who is desirous of becoming  
by his conduct the object of Esteem will probably undea-  
vour to behave with propriety in order to merit it & he may  
be expected to imitate that worth which he esteems & respects  
but a Man who himself esteems nothing & who cares nothing  
for the Esteem of others has no principle by which he can be go-  
verned or kept within the bounds of his duty except fear of  
punishment & this is one of the greatest imperfections of re-  
publican government that under it we daily meet with  
men who have no Esteem or respect what power even for  
the highest conceivable degree of worth & no desire of being  
esteemed by others Such men as these will be apt to violate  
contracts & to transgress against justice & the rights of  
property without the least remorse

not what it is to have a  
sense of honor The character & conduct of pub men already  
calls for disapprobation & renders them unworthy under any form



19. a sense of honor & shame therefore must  
be of great use & extent under a monarchy custom & gene-  
ral opinion are set to influence & govern men but just as  
they pay no regard to those stand in need of immediate force &  
external restraint. The great end of Education is to put due tho-  
roughness to blind principles & to make men capable of be-  
ing influenced by moral & rational

to Conscience  
& to the opinions of men are the chief restraints from evil  
actions & such as have got above these can no longer be the  
subjects of moral government & have as much need of restraint  
as children or madmen the love of honor is a strong principle  
in those who have it & those who have it not are utterly  
incapable of conceiving what it is Monarchs have  
many opportunities of gratifying their subjects with dig-  
nities as well as with enriching them by lucrative  
offices though these two generally  
refuse otherwise & lose

all its value because there cannot be a mark of dis-  
tinction which many people are proud of the order

of S.  
France & the Knights might have composed an army  
so that at last it became necessary

of that order to bring it into  
disgrace & make it to be totally laid aside. The opposi-  
tion of adventures or relative dignity after giving  
principle & a strong in-  
centive to propriety & dignity of conduct all the feudal digni-  
ties of Europe are originally & originally military or what are now  
called coats of arms were only the marks by which  
soldiers were distinguished

expressed their exploits many men who have less little  
sense of the power of reason or the authority of justice have  
often taken an interest in regular behaviour by a sense of honor  
& a fear of disgrace. The ancient Spartans used to make their  
slaves drink to exhibit them or that

the disgrace to which  
that vice exposes human nature they might hate it &  
abstain from it. Even the distant &

& distinction or conversation w.  
those who are candidates for it is sufficient to give a  
repugnance or aversion to the manners of mankind & to ex-



tending to realize them either in the true cause of that genera-  
lity of civility & politeness which is ordinarily to be observed  
in the subjects of monarchies & for which they are so  
apt to value them selves in a republican government  
no man has any fixed disposition to hope for exalt

of a few & his present behaviour has no sort of influence  
on his circumstances & future hopes for what he is  
barbarous or polite brutal or obliging a Prince  
for wealth

& for all the honors of a republic but in a monarchy  
there are so many people who need to be obeyed & the  
spending of one person may be of every great conse-  
quence to every man

behaviour becomes necessary for  
every body especially for such as would make their fortunes  
& all men are naturally so full of hopes of their kind  
that that

fortune must soon become universal as even  
those who have little or no hopes of arriving at honors are

ambition to be thought worthy of them & when nobleness  
of behaviour is conceived.

expected to be very general these ideas have no  
sense or desire of honor not only want one of the most power-  
ful restraints.

injury must in life the maxims of ho-  
nor are not susceptible of a sudden change & the dignity of  
family though originally conferred by the prince are hereditary  
& therefore independent now both these circumstances oblige  
the Prince

at the top of that gradation of dignity  
that is essential to monarchy his conduct must be held  
up as the standard of propriety to others & he must give  
others as little opportunity as possible to catch of him to  
his disadvantage for this purpose Princes

& often disappoint & defeat censure by procuring men  
minded with the praise of their sovereign

on the side of respect or approbation least he become an object

As may be necessary for Princes to encourage men to talk as  
they please of some part of their conduct in order to prevent their  
censure and notice of some other parts of it Thus Julius Caesar



to inflame his country encouraged them to say whatever  
scandal of his private life his frequenting of the Porticatillus was  
early discerned & his ambition affords a suf-  
ficient proof that he did not define that that part of his con-  
duct should be talked or taken notice of & if he had endeavored  
restraint in this case this might have opened the eyes of the  
Public &

to turn away the attention of the public  
from his ambition or unjust conduct with regard to the state  
he cut

principle Struts of others accordingly the people having  
got this strange story of the Dog to excite their philosophy &  
sagacity ceased to enquire any further into the other parts  
of his conduct which was all that he wanted

monarch comes under  
an obligation to maintain that honor to live faithfully to it &  
to do nothing to disgrace the judgment of his sovereign ac-  
cordingly loyally

Hence it is a  
received maxim in law that Treason takes the blood

that men may be engaged to a  
grateful conduct towards their sovereign by the regard which  
they have to the honor & will for of their families

changes & thus  
permanent

It may be thought extraordinary that to

honor & the subpstitutes of virtue  
but as the possession & habit of a particular form of religion may  
serve greatly to attract the attachment of men as well as the custom  
of submitting to a particular form of government

religious rites is of the greatest use in preserving political in-  
tegrity & in producing a love & attachment to the government  
of our country. It has indeed been often alleged against the  
influence of religious belief that many minds do not  
believe

in their conduct by what they believe but it must be  
an eternal truth that men will always be much more  
influenced by what they believe than by what they do  
not even although we should suppose

conduct the Prince  
in all monarchial countries denies the chief part of



all the powers of Europe have certain titles conferred on y<sup>m</sup> Religion &  
by the Pope in pursuance of this on which they highly value  
themselves & for which they are highly respected by their  
subjects & although all these titles are at bottom

inscribed by the Holy Seal thus the Emperor <sup>particularly dis-</sup> fides  
his orthodox

majesty the King of France his most Christian majesty  
the King of Spain his

faithful majesty & the  
King of England while they were Catholics & defenders  
of the faith

that they were indifferent about it they  
their religion or to gross

standing the superstition regard of their subjects to monar-  
chual government if they should declare that they esteemed  
all religions alike this was notwithstanding

invented would  
be equally entitled to their esteem & protection it would be  
very far from minding the matter to have the same  
faith & worship & the same public rules of

that can be conceived & it may be justly questioned  
whether any other can be put in its place that will serve  
the same purpose for any time. After Henry the 8th of France  
had conquered all

Heir by the force of his arms found  
himself still unsafe & despaired that it was utterly imprac-  
ticable for him to remain King of France without pub-  
licly professing the Roman Catholic religion

the protestants  
faith which notwithstanding he sincerely believed & he  
believed any thing under the hands of

Pope & to obtain the reverence from the friends of the Roman  
faith & after all he was assassinated at last for being  
supposed not to have been sincere enough in his public

Roman faith as perfectly sincere  
appear to have proceeded from <sup>an</sup> ~~the~~ warm regard  
tenderness the

not always with justice but that this may not be  
suspected to have arisen from something peculiar to the



James the 2<sup>d</sup> of England would have the religious part  
of his subjects whom would change their faith in com-  
pliance to him would just as had lost all character  
Colonel C                      though a declared Infidel declined

to turn Catholic he replied that he was engaged to the  
Emperor of Morocco at whose court he had been Ambassa-  
dor

James's Popery were attracting                      Mahometan so that King  
Crown Marboud

an new sure what standard of right & wrong there may  
admission practice when they are not agreed with them in  
religious belief & the general knowledge aversion with  
which one set is disposed to trust another is a suffici-  
ent testimony that men do not really believe what  
they commonly assert

exactly the same but as many  
Sects have accused each other of breach of faith & the  
want of honor it cannot properly be true that men  
have so much indifference about one another

Faith is commonly pretend'd when a common or na-  
tional faith is professed by a whole nation or party

upon different persons & the degree of sincerity with which  
it will be professed will be very unequal yet the effects

<sup>prophesies</sup> Catholics may have  
a great zeal against Protestantism though he be an exceedingly  
bad Catholic & very little attentive to

mighty zeal for the Church of England  
though he neither attends to worship nor knows what doc-  
trines it teaches or where in

suspicion may often times be highly  
upheld in a political one & may prevent many men from  
becoming traitors to their country

between true & false professors of the same faith & to  
together against the  
common Enemy The Religion of a Prince is always viewed  
with admiration & greatly increases the esteem of his  
subjects towards him & the men suppose he appears  
to be with

all his commands last of the religion



in him no conceive him to be the friend of their faith  
of duty ex-

cellence & greatness Persecution is that enmity which is ex-  
cited by difference in religion connected with suppression of all  
differences which the one

the other at the famous Massacre of Paris the Roman  
Catholics gave out that the Protestants

Catholics in order to excuse  
their own crime under the disguise of prevention & precaution  
when a Prince gives public countenance & attendance on the  
national religion the professor of it

known that he was an in-  
fidel but if he outwardly neglect it or appears to disapprove it  
he will necessarily be hated though his infidelity were  
not known When the late King of Prussia visited  
all Germany & England

of A & attending to public service  
& gave himself out as the head of the protestant interest  
that he was an infidel as he had declared himself  
to be from his words on the other hand King Charles the

Papess was not human till his death & the Catholics there  
filler were so doubtful of him though privately reconciled  
to his religion that they were supposed to have hastened  
his death

indeputable & devout Catholics when the Emper of Russia  
on the last war was about to send a fleet into the mediterranean

abundant by her luxury the ship of this religi-  
on & her ships found assistance & supplies in many parts of  
grec for the crew

## Lecture

Community of religions constitutes a bond of union  
& a ground of confidence which has always been reckoned great  
& indispensable as the greatest monarchs always stand in need of  
it want to reconcile them to a people

necessary for the general mem-  
bers of a republic to have mutual confidence on each other  
than for a monarch & his subjects or some of the members  
have the relation of



good men are universally of the same faith & acknowledge  
the same principles of morality

in their religious or spiritual  
belief but this opinion is true only with regard to two dif-  
ferent sets of persons the one of which is extremely rare to be  
met with & the other

good men who together with their several reli-  
gious doctrines have  
of morality or his laws the second class com-  
prehends the set of different religions who are mere external pro-  
fessors &  
whatever they last indeed might relate rea-  
sonably to a time

them but as they have no bond of union  
or confidence in mankind on account of the want of moral  
principles in all of them

temporary like that of a mob who how-  
ever harmonious they seem in transacting

soon dissolve & aban-  
don each other to different prisons gibbets or banish-  
ments that a majority of the part of these classes should  
be found in any state is absolutely impossible & that

the whole may resemble the second class who are destitute  
of all principles of belief & mutual attachment is great.  
by to be divided as their union could hardly be more lasting  
than that of the mob which we have seen just now confi-  
dering perhaps these republics in which justice is weak  
& they might be continue that form of government  
conduct that con-

tribute to the union of monarchies. They certainly need  
principles of union because liberty as well as vice is common  
by a dividing principle & apt to split men into parties ac-  
cording to the various notions which they entertain con-  
cerning its extent use & as the subjects of mo-  
narchies consist of people of various ranks those that are  
elevated above others may be expected to possess the esteem  
& confidence of their inferiors

to them in return for the respect  
which they show them

as their Benefactors as well as for  
thus being the servants & representatives of the monarch  
now these having a high sense of honor the monarch must  
necessarily use them with honor & command them w<sup>th</sup>  
respect & cautious reserve he ought not to urge them



or commands without complaints or murmuring on the con-  
trary as they have so high spirits the infirmities in the body  
do as the ordinary subjects as their vapors it ought to be.

with  
ful some concern for them that they be not too much op-  
pressed or exhausted lest they be induced to despair even  
the possession of absolute & unlimited obedience are not con-  
sidered by men of honor to be under to any dishonorable  
service but to have certain limits though not distinctly  
expressed the monarch therefore though absolute must  
limit himself in such a manner by governing accord-  
ing to established laws that the subjects may

• adhere  
to his Edicts which he has absolute authority hinders him from  
establishing by law. Princes have likewise wonderful force  
in quieting the minds of subjects & reconciling them to harsh  
treatments • when they are sincere they will often be readily  
submitted to the immense distance that is conceived to take  
place between

Being The same consideration engages the  
subject to obey the commands of the monarch from

a desire to please him & the sense that they have of  
their own importance

pleasure of one who is so far above  
them we have said thus much of monarchy because by  
the divine allotment it has prevailed almost everywhere & in  
all ages the degree of human virtue being such in most  
parts of the world that the people could not properly sup-  
port any other form of government

that of a republic. And in order to this last a much greater quan-  
tity as well as higher degree of virtue are required than to  
any of the other forms a republic that has not virtue enough  
to govern itself must by that very circumstance acting  
as a cause necessarily fall to pieces & become the property  
of some despot. This leads us to a fourth supposition viz  
that if a people perfectly virtuous or nearly so without a  
sense

restrained only by force now in every constitution or form  
of government even that which confides most in the virtues  
of the subjects must employ force to restrain them  
fully if the whole of the people are strongly inclined  
to commit crimes as is implied in the present supposi-



tion

prompt & corrupt punishment must be continually  
placed in their view now altho' in reality there is no  
just thing in this world as just as any man than per-  
fect darkness yet the degree of virtue among a peo-  
ple may be so very small as not to be worth estab-  
lishing having no proportion to its contrary & therefore our  
reasonings concerning a very corrupt

altogether the supposition

ended may

Despotism but it is our business to consider  
things as they really are  
what their present nature & condition is to them  
for without regarding

view of things it is not  
in the least to be doubted that despotism is actually the best  
form of government for a very corrupt vicious & degen-  
erated people for the same reason that confinement is necessa-  
ry for madmen criminals & wild animals that they  
may not endanger

for having no virtue nor sense

of honor to keep them within any bounds or to oblige them to propriety of conduct

there is therefore good for them that they are confined & that many crimes are thereby put out of their power which they certainly commit if the restraints were taken off them

to them because the principle of fear is the only one remaining in their character from which their governors can have any security

their whole conduct therefore must be determined by such selfish principles as ought not to be used by bad men who are destitute of virtue & a sense of honor a virtuous man ought to be supposed to be always ready & in time to commit any crime

with impunity The shameful prostration, meanness & injury that are employed in the crime must in the present case be entirely let out of the question because these considerations cannot be supposed to have sufficient weight to affect a virtuous man at least to restrain him from his purpose

restrain them there in order effectually



to restrain them from crimes etc

must be continually placed in their view the only picture of  
law which can be

by force is that which suppresses all power right & proper  
by to turn one person whose will accompanied by an irresist-  
ible force is conceived to be in awe of society among a whole  
of people whose every person is suppressed

having power so much  
the latter has as no power than one can possibly exist or possess  
power it is left for such a people that all power be actually  
in one & whatever moral character he possesses makes no odds  
in the present supposition we shall therefore take it for  
granted that the defect

of power

to restrain the crimes of others & even  
his own to a certain degree has no conceivable condition of  
mankind could be more

that of a whole united society left  
entirely to their own will

is capable is that of being kept under  
such strong restraints by means of fear or interests that they  
may not destroy one another was suppressing the defect

to him & as his support & authority is whole-  
ly derived from the people he must wish for their preservation  
at least even if only for his own account

an enemy to the crimes of every  
man & the inclinations of his will must be that none of  
the subjects

partly as his enemy --

"Nemo gravis malis est" is a maxim of nature  
as well as of the schools so that we must not suppose that  
even a defect would destroy his subjects

to danger for every small & they altho. they are wicked  
will not commonly adventure to injure each other for  
fear of the terrible punishment which the defect or  
his deputy will immediately inflict & consequently

of this fear & will only hurt each other when either  
their happiness or the hope of escaping punishment hap-  
pen to be stronger

repentment which will not very

sometimes proceed in very despicable states when an



The attention of the subject & directs them to continue in  
order as the sole position of safety in all the subjects of  
a despotism may be suspected not only to be  
but to have actually committed them  
they may be considered as criminals already condemned  
who are only spared till they

new crimes among  
the society of criminals & persons destitute of honor there can  
be no real friendship or confidence & therefore informers  
must always be encouraged in all despot governments  
Every man is understood only to mind his own interest

in general being by the suspici-  
tion of their want of virtue entirely out of the question  
be supposed to be entirely extinct.

of their treachery  
or fidelity as there can be no safe relying on oaths &  
engagements which virtue & honor are supposed

common rule on

but it contains

advantage altho the defect is not concerned in them

The institution of curiaceous thus frequent fasts & thus regular  
abstinence from wines are a restraint upon

Obidience This is to be believed  
that on any objects as well as many heads of false religion  
have been in

any notion what they themselves entertained  
of this importance & mystery or in order to give the people  
by that means a habit of regular & orderly obedience & to keep  
them on a readiness to do every thing that should be enjoined  
them many of the practices of ancient superstition may  
be traced up to the source whatever notion the first

said to be of importance which tends to form or strengthen  
on a habit of obedience. Let obedience be the first lesson as  
you teach your son says Sir Walter Raleigh

Prayers when considered singly are of no importance  
only shortly become somewhat more regular & disciplined



the movement the move-  
ments that are performed in consequence of them in the mili-  
tary exercise are not singly of any importance at all but  
the custom which soldiers acquire of observing them exact-  
ly &

agility & attention & ready compliance with any  
other orders that may be given them but perhaps for regularly  
supposing each other in the most advantageous manner both  
in the case of attacks & defense there is perhaps many prac-  
tices which we are apt to decline

that we are aware of by giving

occupation to the

parties or by inspiring them with habits of regularity  
& obedience & preventing them from becoming proud & self-  
willed & exceedingly immoral. maybe made highly  
thence may

be inspired by the terrors of

superior overpowers of a despot according to the  
express supposition would in no case whatever affect the  
innocent as he is not supposed to be concerned in any  
such

view in examining because of a knowledge

none in a subject

because it sets no value on the lives of  
men the dominions of a despot though like a large pri-  
son committed to the care of vile & mercenary men is never  
theless the only fit place to receive & confine those who  
cannot be otherwise restrained from injustice

the minds &  
tempers of men it is to be expected therefore that a despot  
will be uniformly cruel unjust & unmerciful in revenge  
& that he will increase

from more passion when the  
ends of justice are already attained & that he will involve  
in the offence with a view to his own safety.

unrelenting & perver-  
se the subjects are supposed to be cowardly  
endeavour generally  
to degrade human nature & to explain away the in-  
fluence of all religious & moral principles in order to exempt  
a government consisting entirely of force & to fortify the minds  
of the Tyrants



Society it is certainly the people's most necessary for a wicked & corrupt one & when ever a society becomes thus corrupt it produces a despotism by the law of necessity, anything less than the rigor of a despot can be able to keep these men in order who have neither virtue nor honor to restrain them from crimes now as criminal are justified

from mutual injury or the like manners Despotism is the natural method of creating

with Societies that are vicious & cruel. Force & error may keep them in the order of a society to prevent them in a great degree from hurting one another & this kind of

from the extreme of perfect vice as they are from that of perfect virtue they may be governed by a monarch but when either the monarch or the people degenerate despotism which is the corruption of monarchy is inevitably perfect

every monarch pretending to have a right of being a despot when he pleases & being restrained & governed only by his own will we cannot say exactly or positively

That the case of a people fitted for despotism which we  
are treating of at present

people yet ma-  
ny nations are have been in so low a state of civility  
that no other government

so that their small virtues do not change  
their state nor make any alteration

according to which it is proper to proceed  
with them accordingly the Chinese the

nations of Africa are fitted for a despotical government  
by their moral state & quality — —

## Lecture 192 May the the

commonly so much agitated even by the worst form of govern-  
ment as they are by their own want

daily life when they are daily ma-  
king despotical government more necessary & proper for them



is completely extinguished it is more properly the concern of the citizens  
of a free republic than of any others to consider with attention the  
nature & consequences of despotism because that mangle the state  
under which they must fall if by the practice of vice & licentious-  
ness they render their own liberty incompatible with public safety  
the object of all laws is to restrain villains & the modes & chains of  
despotism like the severe discipline of a workhouse is necessary to  
restrain them from doing farther mischief to one another & to  
the public & if they find their road to be heaven & their confine-  
ment hard they have only themselves to thank for it The citi-  
zens of a free republic when corrupted to a certain degree by vice  
must necessarily fall under despotism because the want of a sense  
of honor which at least always exists in republics & feel the  
yoke of rulers themselves unfit for an aristocracy or a mo-  
narchy any interfering & courtier man therefore who can  
find means to make himself

The purpose may easily become a Despot  
in a corrupt Republic & River of

Thomas the two examples which Mackintosh gives in this book  
were men who had to struggle with poverty & obscurity & to  
bestow much time & study before they reached the sovereignty  
of their country men do not commonly become despots

except by the practice of great crimes  
of the Bonds of society & friend ship  
violation of the charter of nature &

Despotism or rather they on the natural  
necessary means for acquiring unlimited authority no good  
man ever formed even in imagination the design of enslaving  
his country & even if it were very corrupt he would rather aban-  
don it to fall in the defence of its liberties than even think of

unprincipled wicked man can have no other object than the ty-  
ranny of his country & such have always been ready to at-  
tempt to seize the sovereignty whenever it was in their power  
the Norman conqueror or rather the pretorian. Mando

standing armies have been thought by many to have a tendency  
at least to monarchy but all depends upon the characters of the  
kings of whom these armies are composed & to whom the im-  
mediate command of them is entrusted as well as on the character

under Oliver Cromwell had conquered Great Britain & Ireland  
when they became destitute of a proper commander & were con-  
ced

contrary to all the theories that were ever  
formed either before or since that time concerning standing



1  
James the 2<sup>d</sup> almost wholly ruined the liberties of England without  
having any standing Army and had small force the latter of  
these had soon destroyed him & on the other hand their predecessors  
since the revolution have constantly kept up a great standing  
Army without injuring the liberties of the people in the smallest  
degree by that institution a Despot has need of an Army for his  
guard as well as for executing his orders. & As the fate of the  
most part of Despots to be as famous slaves to their Army as the  
rest of their subjects are to them. They must therefore con-  
tinue at all the violence & injustice that is committed  
by the Soldary though

as long as their Armies are willing to  
be subject to their Orders. The Pretorian bands of Rome made  
& deposed emperors at their pleasure according as suited their  
humors & interests & the person who gave them the most money  
& when emperors kept them under the strictest discipline they  
uniformly chose for their emperors & when those whom they  
had chosen did not come up to their expectations they destroyed  
them with as little Ceremony as they did the untroublesome  
Postumus.

& sometimes made their

General Emperors even without asking their Consent 30 of  
these military Emperors chiefly different Modes of

in the reign of Gallienus near the middle of the 3<sup>d</sup>. Century  
e down went the final fall of the Empire the army  
continued to make emperors the 12000 Janissaries of  
the Turkish Empire act as the Prutenians Brand of cen  
stantinople they makeing or deposing Sullans or Grand

e the Stadtholder of  
Prussia enjoyed the same priviledges till Peter the first broke  
them at his auction. 4000 Janissary Soldiers at Algiers are the  
persons who choose the Dey who holds all Europe & America under  
tribute the antient Tyrants of Sicily & Greece were uniformly  
made e supported by an armed force e the same though they  
had the best government in the world were seldom contented  
with it e therefore are frequently told that God sold  
them into the hands of the Deputies of the neighbouring countries  
by way of punishment for their sins. In a Despot government  
most obedience is found

by terror e men live in the greatest  
pain e constraint for fear of making their condition worse  
by complaint or ineffectual attempts to regain their liberty -



Safely in so he had only in a strict compliance with the will  
of the Despot or by flattery or by being him & his substitutes  
a Despot government like a monarchy must be divided  
among many instruments & substitutes & these must have  
others under them in their turn so that the different branches  
are all defects with regard to their inferiors & slaves with  
regard to their superiors but the whole weight of the autho-  
rity of the whole chain of substitutes falls heavy on the lowest  
ranks of the people who having no inferiors have not even  
an opportunity of revenging upon others the bad treat-  
ment which they themselves meet with from their Tyrants  
their condition therefore is deplorable & desperate as they  
live under fear they must be habitually melancholy & as  
the poets nothing with plenty

hence that proverb that is mention-  
ed by Abbe Maynal as common in the despot countries of  
Asia "It is better to sit than to walk better to sleep than  
to be awake & to die is best of all" & Despot does not  
govern by fixed & determined laws but merely according  
to his own humors he does not however proceed without  
danger on the contrary the his throne is founded in blood

circumstances with lenor it is generally at the same time  
surrounded with danger & treachery by the nature of things  
a despot can have no friends & can only expect that his  
followers will adhere to him as long as they think it  
their interest he sleep surrounded with guards tho'  
not men fearfully on that account "nam quisquis

"Whicuius a legal Inter

league of Interest

or by those whom he raises by his bounty

restraint of past injuries or an apprehension of common  
dangers sometimes makes leagues that have the same effect  
so that the despot plays a very treacherous game & has always  
his all at stake because if he has any family or posterity  
they are commonly involved in his destruction by an  
application of his own maxims to himself If he either  
omits to cut off a dangerous rival or happens to provoke  
a more valiant bravery or if he threatens any one whom  
he does not immediately kill or if he makes it their  
interest of numbers to kill him he is gone in an instant  
if they themselves are not in the number gentlemen &c



being  
doomed to live con-

Despot. his

having been sufficiently suspicious those on  
whom he had bestowed the most of his bounty if they are  
not contented with his favor may grow false to him in hope

lives by perpetually deceiving & oppressing others & at  
last commonly die by being deceived or overreached

affordities  
accordingly the step of the Tyrant though generally more torment-  
ing than even that of the victims of his tyranny has been  
greatly cooled by many who were already in happy  
situations & many men men have died disappointed

may be said to be worse than death hence we ob-  
serve in history that one despot no sooner falls than ano-  
ther immediately takes his place & commonly it is the person  
who slays the Despot that succeeds him becoming a Tyrant

himself another may soon do the like for him that he  
has done to his oppressor in hopes of the same reward by  
the untolded license of the Despot & the gross manner in which  
he exercises his government The passions of the subjects are

to pity the unfortunate &  
they should offend the Tyrant they are often obliged to look cheerful  
while sorrow plays upon their hearts. ~~"Sperem cultu simulat"~~ <sup>even in their thoughts left</sup>

"Sperem cultu simulat"  
Inferior of life & properly they are afraid of thinking upon  
it feeling.

it is possible that it was on account of the misfortune which  
they suffered under their defective government that the  
ancient Pharaohs used to throw bitterly on occasion of the  
birth of their children & to carry them to their graves with  
darius

elsewhere are affected in the very same manner  
with the births & deaths of their children & for the very  
same reason yet some have affirmed that defective  
government is in fact the best for maintaining

& to exaggerate the defects of human nature they proceed <sup>the gradations</sup>  
to exaggerate the defects of human nature they proceed

1<sup>st</sup> That all men would commit crimes if they durst.

2<sup>d</sup> That crime cannot be prevented without discretionary

power —

3<sup>d</sup> That a person to whom discretionary

power is not to commit crimes of  
his own —



4<sup>th</sup> That the sole duty of government is to controul the  
actions that must be

Now all these suppositions are  
contrary to reason & experience the fact is that the manners  
of men are various & that the same penal laws & form of  
justice by which a people may be successfully governed in  
a virtuous age will not be sufficient to restrain them in a  
corrupt age in the first place therefore it is false that  
all men would commit crimes both with respect to men  
& also to crimes & the substituting a general assertion instead  
of a particular is a very gross error the truth only is that  
some men in some certain circumstances would commit  
some crimes & it is no less true that many others in the  
very same circumstances would not but a particular assertion  
applying to a few is extended by the enemies of liberty & hu-  
man nature to all men without exception Those who advance  
such doctrines as these do very well to conceal their reasons  
because the very belief of them is a scandal to the  
believer for no man can properly be honest himself who  
believes dishonesty to be a general & universal attribute  
of human nature the worst bad art is to do very many  
instances of men who would not commit crimes even under the

very strongest temptations & many who are not restrain-

from some vice by principles of an atheistical nation The 2.  
position is not less fallacious. It is true that when there are  
no fixed laws and always the case under despotism or  
in times of civil dissension civil war when laws cannot  
be executed discretionary powers in judges & rulers may be  
lawful & necessary but to make it a general rule to  
allow them such powers would be very dangerous unpar-  
sonable law ought to be strictly interpreted & if a judge has  
a discretionary power of varying from the letter

of Legislation

General laws may be so made as to apply to all par-  
ticular cases & when the application of  
equity will always expand & in favor of  
the person accused the 3.<sup>d</sup> position is as contrary to reason  
as the preceding one & likewise directly contrary to  
the

they dare discretionary powers ought not  
to be  
because by this first supposition they would certainly  
employ them for the commission of crimes contradict



both these passions no less strongly than they contradict  
each other In despotic States the greatest wrongs that the  
people suffer are generally

unconformable obedience under despotism the principal object  
his own passion  
is in the service of his master so that commonly he will not  
be content with merely fulfilling the will of his Tyrant but  
will take the same opportunity of fulfilling his own as he has  
in his power in this manner to gratify his own passions & to  
advance his own interest while all the odium & resent-  
ment occasioned by his conduct falls entirely on his mas-  
ter hence some political writers for the sake of their own  
regulation have taken care that all the acts of grace &  
leniency should be done by themselves personally but  
that acts of severity & punishment should proceed in  
appearance at least from their ministers but the greatest  
vices of Despotism  
in Politics in this respect because they

a unpopular action, a proceeding from the will of the Prince  
himself which they pretend that they could not hinder  
The 4<sup>th</sup> proposition supposes government to be merely an  
Engine of punishment to pour the vengeance of the law  
upon all transgressors as soon as they can be caught

a violence but a rational governor will perform that  
part of his office with reluctance & will endeavour  
to avoid it as much as possible The end of rational  
government is to prevent many offences by the punish-  
ment of some & a merciful governor would much  
rather wish that no crimes were committed than  
that all criminals were immediately apprehended  
& executed no prudent man punishes false Overtures  
because offences are committed but in order that offen-  
ces may not be committed The law indeed avenges  
on the criminal

in this he leaves the resentment to the  
law & bends all his views to security & the welfare



1  
he desirous to order the punishment of Crimes in  
such a manner as to afford the most effectual warn-  
ing & instruction to mankind in general at the  
same time to secure when pardon can serve the  
ends of justice & instruction

& the only reason why a good  
magistrate executes penal laws is men compassion  
for the Sinner who otherwise would treat the mercy of  
every criminal when the imminent passions of men

incapable to measure the measure of punishment  
but altho a despot will not be disposed to punish  
crimes from a love to justice or from compassion to the  
public yet he may be actuated in it for his safety & in  
order to promote his own interest

Treason & continued to ward off dangers from themselves & the  
incapable of the measure or honor of punishment is generally  
proportioned to their fear & passions

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# Lecture 193<sup>a</sup> May the 16<sup>th</sup> 1799 ~

When crimes multiply & when immorality is enabled to employ the forms of law as the further steps of iniquity it may be necessary to allow such defective forms but it never can be necessary to deprive the innocent of all the difference of reason & justice for the same reason & justice which protect innocence may & will condemn the guilty the forms of that constitute a strong distinction between despotism & rational government under the first of these men are often punished by private indignation or persecution without any trial at all under the latter can always labour to distinguish the innocent from the guilty to ascertain the commission of the crime by proper evidence secret examinations trials by torture & private executions by speech & palms & infamy & despotism government through the inequality of Holland from a blind imitation of despotism ages have adopted the latter into the criminal law though it is much more suitable to the Roman inquisition or to the government of Turkey than now is excusable to punish any criminal without a formal & fair trial in which he may have every opportunity that he can desire to prove his innocence of the charge & of this rule none departed from men can have no security remaining either for their lives or their other rights of the law



require moderation than is necessary for convicting the  
guilty it may be altered but in no case whatever ought the  
form of law to be so varied as to endanger the innocent indeed  
in times of occasional tumult popular frenzy or rebellion  
it may be necessary to be afraid  
mainly to the laws

tant as enemies who by

safety & who therefore cannot have  
the benefit of laws till the public has moved to punish the  
regular & formal administration of justice necessarily suspends  
itself & properly but when this is taken away justice must  
be done in a manner suited to the times & the opportunities that  
one has of action for it will require the same solemnity in  
times of confusion & sedition

is highly absurd. "Silent inter

*nec se exultant jubent*

*expectari vellet ante in iusta pena luenda sit quam iusta*  
*suspensa*" Even war has its laws & these are suited to an  
unsettled state of things on which force is to be resisted by force  
but as it would not be lawful to proceed in the same manner  
in acts of government in time of peace as in justifiable & necessary  
in times of war so it would be absurd & hazardous in

times of war & violence to enact the same forms & use the  
like precautions as in times of peace Domestic disorders of  
this kind like foreign wars render discretionary powers oc-  
casionally necessary but this necessity is only temporary  
but despotism may be said to be a confirmed state of war  
& alarm as it ~~creates~~ licences

get met when they cannot otherwise  
provide sufficiently for the safety of the public. The coward-  
ice of despotism & the consciousness that the Despot has often  
ing the object of the hatred of his subjects

continually surround him for the most  
part even in very corrupted states it was much the interest of the  
magistrate or of the subject to keep the peace he threatens  
many say public Cyrenes who do injury to one or the violence  
that is used to one may likewise be used against another so  
that no man who for violence used can remain indifferent  
about or even have any assurance that he himself may  
not be the next object against whom it may be directed  
"sunt intactis quodque cura condicione super communi"  
But under any form of government the peace of society is  
commonly enforced not so much by the fear  
government



1  
principles of self preservation in mankind who will readily assist  
each other against every one. whereby doing injury to one declares  
himself an enemy to all absolute despotism is the extreme of  
ideal corruption & every good & all approach to it is an  
usurpation & a national mission. But even in the same  
proportion as the characters of men fall short of perfect are their  
governments may likewise be short of absolute despotism  
But many nations are so highly vicious that their government  
necessarily approaches so near to absolute despotism as  
scarcely to be distinguished from it every form of govern-  
ment is in a continual flux & has a constant tendency to  
change to form other thus republics have a natural tenden-  
cy to transition to anarchy monarchies to despotism  
& aristocracies to oligarchies But despotism has no  
tendency to change as it suppresses the

fixed & unchangeable sometimes how-  
ever it may happen either from imprudent conduct in  
the despot or by any accidents that may affect the character  
of the people that even despotism may be changed  
for another form but the situations of men & the cause

of change in government are so various that it is impossible to assign the order in which the different simple forms may probably succeed one another in general or already observed monarchy has been the earliest form of government then succeeded by tyranny or despotism which by driving men to despair led them to set up the republic as a form of being at the greatest distance from the despotism sometimes too an anarchy has followed upon a despotism & sometimes it has led to it but the regots of despotism have been commonly succeeded by limited monarchy in great states

small extent & these republics again have sometimes degenerated into anarchy but more frequently to despotism. The Polesopolis

prince in his army is so far from being a contradiction to what we have said concerning despotism that it is really a confirmation of it these wretched princes from one another constraints which is equal to the power of a Despot were brought against them well within the bounds of their duty having no obvious engagements to each other & each minding only his own



interest they would endeavour to promote it by all  
means

of the community like the particles  
of a homogeneous fluid they

and if they had  
been possessed of further spirit or action is only equal to reaction  
& the effort of every one of them to overcome another were  
uniformly defeat

in his turn than  
a society of Phœnixes might be as free from injury by one-  
anymity as a society of honest men would be by obscurity of view  
only suppose that necessity to be nearly equal on all  
hands & that the attempts of every one to injure another  
would meet with equal resistance on all sides but as  
mankind consist mostly of mixed characters mixed go-  
vernments must be most suitable to them & consequently  
the most durable the simple forms indeed figure best upon  
paper but the mixed ones are preferable in real life  
the first constitute the best romances but the latter compose  
the better history absolute despotism tends to produce  
by its rigor that very extremity of vice of which it is supposed  
to be adapted as a remedy for the defect of despotism

governments is not to secure the subjects in the enjoyment  
of their rights but to make them a property of the Despot  
not to ~~suppress~~ suppress vice

of Justice independance & courage now a despotism  
has not for its object the welfare or rights of men for all  
its force is commonly employed not for the protection of  
the subjects but for the preservation of the despot & the  
subjects are protected merely as the cattle of the Despot  
in order to be killed for his support & amusement otherwise  
he chooses a Despot in short possesses his power in the  
very same manner & for the very same reason as a sports-  
man possesses the deer in his Park or the Mabbitt in  
his Warren

One has a mind the emperor Caligula  
was a fool

That all the Roman people  
had but one neck that he might destroy them all  
at once but he did not consider that that neck of the  
Roman people would have comprehended his own



1  
usur that can be regarded or excused by a Despot though  
every trace of reason wisdom just especially humanity & gene-  
rosity must be eradicated from the mind of the slave of dis-  
respect in order to render him an unfeeling instrument  
proper for executing the command of his sovereign for as of-  
ten as he shows any feeling affection attachment to worth  
or desire of glory he must immediately become an ene-  
my to the despot & consequently the despot to him for a  
Despot cannot believe that a good man could be an uncon-  
cerned spectator of the

is thus for all Despots being properly induced render  
all good men to be uniformly their enemies immediately up-  
on the knowledge of their character & without any informa-  
tion of their particular actions to think for oneself to  
abhor constraints & assistance & to love liberty truth ho-  
nor & justice are so many human crimes in the eye  
of a Despot

from continuing to be his slave  
a Despot renders himself to be merciful & generous if he  
only suffers his slave to live though in continual fear

~~that~~ <sup>honest</sup> suspicion & inconsistency having an interest in  
supporting her own tyranny & counting every measure  
lawful that seems necessary to support

only can meet her a good man but must  
necessarily be the enemy of every good man in her dominions.

We have ~~never~~ considered the great question with respect  
to the best form of government & discovered that all  
the simple forms have only a ~~more~~ relative good only  
accordingly as they are suited more or less to the different  
states of morals among nations & that men owing to  
the government owe wholly from them thus & in owing  
to their own behaviours but whenever men have virtue to  
a certain degree they may of course have liberty likewise  
& when they become vicious to a certain degree they neces-  
sarily lose their liberty & fall under Despotism. Liber-  
ty must stand & fall together with virtue & cannot  
stand without it & consequently all the theories of  
virtue ought to be considered as the great foundations

of trust & offices

circumstances



require a variety of institutions so different constitutions  
or forms of Government require or imply a different dis-  
tribution of trust & office In free Governments of every  
denomination

& executed hence the office or func-  
tion of state are naturally divided into legislation & ex-  
ecution & execution. Legislation under every consti-  
tution of Government is the immediate act of the Sovereign  
power & cannot be delegated without transferring  
his sovereignty in some governments indeed the jealousy  
of dividing the sovereignty is carried to a much greater  
height than in others In Turkey the Sultan & the  
Commentators on it are considered not only as the stand-  
ards of religion but the Laws of the Empire & in En-  
gland the King is acknowledged as the head of the  
national Church

& Ecclesiastical so jealous are they  
in that country of dividing the sovereignty In all  
the governments indeed ancient or modern of which we  
have any account whether the union of the sovereignty

public Religion or standard of right & wrong to  
which all Parties Govern or well as Governed are en-  
gaged to conform their conduct & this has been uniformly  
acknowledged a public concern & instead of being left for  
its support to a partial tax imposed on a few by their  
own consent has been uniformly supported at the pub-  
lic charge by means of a particular profession & order  
of men having to legislators judicature & executive  
quite distinct from those of the state & these coordinate  
powers in some nations have been considered only as con-  
current councils & necessary parts of the Constitution  
In others again they have been the object of jealousy

who pretended to be in dread of what they affected  
to call "imperium in imperio" But we have no  
instance what ever of any government among the  
antients or moderns where the subjects had their  
standards of right or wrong to which they had adop-  
ted different standards for that purpose the effect  
of this management must be disowned only by



time

by the Collective Body but it is not essential  
to Democracy that the whole collective Body should either  
deliberate or decide accordingly among the Romans be-  
cause they had no notion of representation the whole  
citizens at large in their public assemblies gave their  
assent or dissent to laws that had been already deli-  
berated in lesser bodies

Citizens were smaller the whole body  
deliberated as well as decided that the deliberations  
decision should be both performed by representatives is a  
great improvement of modern times because these  
may deliberate without those inconveniences that must  
always attend very large assemblies

for having distinctly delibe-  
rated what a very great assembly cannot do because  
they cannot be conveniently kept together for a time  
that will be sufficient for that purpose but the collec-  
tive body of the citizens instead of deliberating altoge-  
ther in person for which they are totally unfit

# Legislation

what proportion of the present must concur in a public solution voting by ballot

but quite heterogeneous to a republican constitution & contrary to that sacred principle of freedom

their opinion all that can be said in its favor is that it gives every one an opportunity of voting in secret which in free states ought neither to be denied nor granted but to be left to the discretion of those who collect the votes or are employed to number them & it is open to many modes of deceit for which secrecy furnishes temptation

that a great many more votes have been given than there were voters & others have boasted after the election that they have given 5, 3 or 2 votes instead of one to a particular candidate besides cunning party men by concealing their real principles have



zeal & have afterwards told those who chose them by  
these means a fair & certain account to the public eye  
cannot be expected to be attained by ballot

except to a narrow order of servility & unworthy of the dignity  
of a free people. It would be rather a very miserable  
state of one lived under such a government where  
they durst not express their real opinions & there would  
be reason in this situation to cry out for the want of liberty  
but this method of voting by ballot actually subjects  
every man to that very condition which he would think

would tend to destroy all truth & confidence  
among men who in this manner can never know the real  
dispositions of their neighbours who may in this manner  
be gradually serving one party even while they pretend  
to be faithfully canvassing for another & the great in-  
crease of villany & the corruption of manners as none  
knows as well in what manner any of these managers

voted or how any  
swayed by their negotiations In this manner  
where a man may vote for a person whom he is  
ashamed to name but it is much more suitable to  
liberty, thought not to know that every man  
should give his vote in the most public manner

but those cannot be properly called free men who  
manage their votes & deliberations in a manner so  
opposite to liberty the English mode of

men worthy  
of free people than conducting the matter as if the  
electors were consulting a thief instead of giving  
their opinion those electors who are chosen by  
ballot can never have any such thoughts for

who were their real friends can give them no token to  
distinguish themselves from their enemies in short some  
were to elect on purpose

& most open & conve-  
nient to fraud & Treachery he could not fix on a more



official method for this purpose than that of voting  
by Ballot.

## Lecture 194

The promulgation of Law is still very imperfect under all  
forms of government that we know of  
to say any of them. An every government is un-  
der the necessity of supposing that the law is actually known to  
all the citizens though they are sensible that there is not really this.

as far as possible but the great multiplicity of the laws by which  
States choose to be governed & the numerous & confused produc-  
tions of their Legislators every year are rendering this more & more  
impracticable; but when ever men begin to think liberally &  
rationally on the subject there will be some abridgement at  
least of the statutes that can be communicated to the people  
because no man can be said to be truly free who does  
not know what laws he is subject to & yet this is actually  
the case with all the inhabitants of free States but people are  
as easily cheated with regard to liberty as any other thing  
whatsoever & may be as easily induced to put up with  
less as they are apt to insist for more than is actually -

The late consideration the members of Congress were not  
obliged to attend & had it left in their power to be as tract  
error to their constituents as they had a mind & even in  
the new constitution this irregularity has not been at-  
tended to & the members are still left at liberty to  
attend to their duty or not as they please thus the  
most important question to the public may be totally

members going out to follow his diversion & yet the Law  
has nothing to say to him for this scandalous neglect of his  
duty the constitution of this state likewise does not bind the  
members of assembly to attendance except when they please  
& at the same time it requires  $\frac{2}{3}$  of the members members  
as a quorum for the passing of any Law so that one ill-  
disposed person by adding his influence to the 3<sup>d</sup> part may  
easily overthrow all the proceedings of the other  $\frac{2}{3}$  of the  
assembly by leaving the house without a quorum  
when any Law is to be passed & although such ridiculous  
incidents as these have not often taken place yet  
they have happened more than once & citizens have



but by the most obvious maxims of common sense it ought  
not to be left on the power of any person or any party  
to behave in this manner because by going out of the  
house without leave a minority may at any time go  
over a majority without any conveniency their reason or bring-  
ing them over to their opinions but merely by deserting  
their own duty it is as much for the interest of the public

house during their session as that they should be accounta-  
ble to their constituents at their next election although neither  
of these are actually insisted on yet there are many  
who contend strongly for the latter but seem to pay  
no regard to the former at the consecration of the Roman  
Senate each member burned a few grains of incense on the  
altar of victory that stood in the midst of the senate house  
immediately upon his coming on by way of devotion &  
in form

then uniformly began by prayers though this form is  
often very little attended to each house of the English  
Parliament has a chaplain for that purpose though the  
custom is that scarcely any of the members except the

Speakers attend that Ceremony

The attendance of these members as  
when there is a call of the House the Speakers send their  
serjeants at arms to every part of the Kingdom

a each of these absent members is obliged to pay 4<sup>l</sup> sterling  
by the day to the serjeants that brings him to his duty &  
is perfectly obvious

nor authority without fixed regulations  
binding the members to attend under a penalty & never  
to leave the house without leave asked & given by the  
Speaker to insure the authority of the house in England  
the building in which the Parliament meets is pro-  
vided with a number of retiring rooms for the conveni-  
ence of members that they may not be obliged to leave  
the house on pretence of necessity but as the best insti-  
tutions are liable to corruption these retiring rooms  
are commonly used for playing at cards in the time of  
the debates which does not much mend the matter as  
many members follow their gaming in these private  
rooms during the whole time that the question is  
debated by the rest & only go onto the house to give



appear. That the most sage resolves of an assembly  
of heroes & patriots for making & governing a  
political constitution may be in a great measure  
lost by the neglect of a few necessary forms. Respect-  
ing the execution of them when a representative is  
chosen he ought to be obliged under a heavy penalty  
to attend to his duty otherwise his Elections are entirely  
in vain & when the members are actually in the  
house unless the speaker have authority to pre-  
vent them from going out on business whatever can  
be done & any business however important may  
in this way be hindered or lost where laws are  
appointed by a political constitution to be made  
by a certain assembly every thing that is neces-  
sary or order is thus being made & for there being  
the deed of that assembly ought to be proposed  
to be appointed at the same time under a dis-  
tinction the Collective Body of those who govern  
whether by election or hereditary title must exercise

The power of Legislation notwithstanding they  
may act under the same forms & regulations that  
have been mentioned as necessary to a Body of  
Magistrates. Aristocracy, an subject to faction  
and if their legislator is an elected one these  
factions by coming alternately into power at different  
times may keep the whole state in constant confu-  
sion & on a great measure destitute of any fixed  
laws by each of them repealing & pulling up what  
was done by their predecessors suppose that the legis-  
lators of an Elective Aristocracy

that unless cer-  
tain leading conditions forms & regulations were esta-  
blished no scheme of legislation whatever could take  
place among them because whatever is done in the  
first two years may be abolished in the 2<sup>d</sup>. restored  
in the 3<sup>d</sup> repealed again in the 4<sup>th</sup> & so on without end may  
this inconvenience may either attend the assembly of a  
free people if they are not a wise one  
Aristocracy Something very



Senate in the decline of the Empire it appears from  
the history of that Period that when any measure was  
rejected at one time it was sometimes reworded

into a law but it  
was not in the power of every person to take this course  
of course at first to have been the established custom  
that any measure that had been once thrown up by  
a majority of the Senate

at least for a very long  
time but the emperors at last gave privilege to  
certain Senators to revive motions that had been  
already

or even 5 times by the Senate & a privilege  
of this kind was called "jus suum a tertio quarte aut  
quinto relationis"

to particular persons must be of  
very dangerous consequence & if it extended to the repeal  
of laws already enacted would unhinge government  
altogether the method of providing in the English Legis-  
lation is very exemplary & commendable on this head

house of Parliament gives notice of his intentions & of the motion that he intends to make for a considerable time before so that nothing can be carried by

notice & attend

It is said that in the Roman senate the right of removing the same motion 4 or 5 different times did not extend to the repeal of laws already made but solely to move over the repealing of laws already made ought to be a matter of great solemnity & deliberation & when a private party has acquired any interest by the deed of one legislator it ought not to be in the power of any other meeting of the same legislature at any other time to revoke that deed of theirs by which a private party had acquired a right otherwise there could be no security or faith in government but a contract made in the name of the people by one meeting of the legislature might be revoked by another meeting so that the assembly of the state would get so bad a name among the citizens that no person whatever would trust them or trust them for the smallest matter now to de-



Adams thinks that any single assembly in a State  
would be liable to all the inequalities, exorbitances & trans-  
gressions against the rights of private parties that ar

Other respects in which a single & unbalanced assem-  
bly of legislators may be compared to an elective Aris-  
tocracy that they are so obvious that they need not be  
mentioned. Under an absolute monarchy the power of  
legislation is exercised by the monarch but he is suppo-  
sed to stand on need

an inconsistency might take place  
the French monarchy had till very lately Parliaments  
consisting of lawyers & judges chosen by the King & com-  
monly too for a sum of money

of the monarch &  
these French Parliaments though they had only a  
right of remonstrance against the intensions of the King  
pleasure & actually

As they were in some degree independ-  
ant & have often exhibited in their remonstrances  
just sentiments of liberty & Patriotism & would have

Men offended their Sovereign & the Parliaments were  
frequently banished for their Monarchical behaviour but  
Lewis the 13<sup>th</sup> entirely destroyed these Parliaments &  
annulled

sumptuous to have restored them  
as they were but the abolition of the Parliament  
threatens to have an effect quite contrary to the de-  
sign of the monarch so that the French nation  
have become more zealous for liberty than ever &  
will probably soon be a free nation

is likewise  
the supreme court of Judicature • Judges on the last  
resort both in civil

of Government in the  
course of the Thing with the same anxiety that free go-  
vernments endeavour to keep them separate now if any  
single person or assembly proposed all these branches or  
the Election of them under any ostensible form what-  
ever that government would be really a monarchy  
The legislative power of a Thing may be qualified by  
the forms of registration or promulgation that are



under the French Government the registration of an  
Edict by the Parliament was necessary to give it the  
force of law till these assemblies were abolished when  
they refused their consent it was usual for the King to  
convoke what he call

to erase the refusal of the Parliament to register the Edict

where the French Parliament lasted but  
was thought to be so very misfary that the want  
of it could only be supplied by the solemn

of any sort the power of Legislation  
must be exercised by the concurrence of all the collateral  
powers for if a law could be enacted without the con-  
currence of any single power that power may be sug-  
gested

two or more Branches it is  
enough that they must concur before any law  
can be passed jealousy & fear of tyranny has dictated  
to different States different modes of dividing their  
legislative power & securing the concurrence of several

Branches but it seems to be a natural idea among  
free people

The whole business of legislation

that two or three Branches afford so many more  
chances at least of upright & honorable procedure  
the third part of the Legislature for instance can  
never have as much influence in turning men's heads  
or exerting their vanity as the possession of the whole  
power of the Legislature which we see has frequently  
that effect so that a Legislature consisting of 3-  
branches e.g. has thereby 3 chances of providing wisely  
for me

we must to-  
gether & to decide questions of Legislation by the major-  
ity of the aggregated Body any law defined the govern-  
ment would cease to be a mixed one but when a con-  
stitution has divided the Legislative power into 3  
Branches these must have a mutual negative on  
each other

therefore in a constitution of  
this kind right to be as fatal to any proposed



Law as the want of a sign

with a variety of

forms relative to the proposing & enacting the Law.  
though it sometimes happens that these forms speak  
one language & the laws quite another thus E.g.  
all the Bills that are brought into either house of  
Parliament in England are in the form & language

just & such things &

the Royal assent that they have the force of  
Law & assume the language of authority "Be it therefore  
enacted by the authority aforesaid". The necessity of  
money Bills

each branch has a negative  
on the other all of them must be assented to they are  
only laid under a necessity of concurring in secular measures

the matter of every Bill was first approved  
by the Kings Council then the houses were permitted to  
abate it & petition that it might be enacted & the  
second Royal assent which however he owed to the

being in fact granted already —  
Lecture 195

Sovereigns of any denomination who have suffered  
Courts of justice to follow custom as a rule of decision

as a law  
the most essential & sometimes the greatest part of the laws  
of a country are derived solely from ancient custom

Of the reverence  
that is usually paid to antiquity generally given to customs  
much more authority than the most upright decisions of living  
judges besides one thinks it no hardship to be under the same  
laws with his ancestors whose memory he reveres customs of a  
vested by time are supposed to be allowed & to have the high-  
est authority when a custom is so ancient that we know not  
the original of it it is only so much the more venerable on that  
account jurisdiction or the office of a judge is to interpret the  
law & to apply it to particular cases this office under every  
free constitution ought to be distinguished from that of the legisla-  
tion for as limited monarchies have often risen to absolute ones  
by an excess of confidence free governments are generally very  
jealous of trusting too much to judges for this reason



into parcels & to entrust each parcel to a different Body that  
none may have too much in their power & that there may be  
the less probability of their conspiring together against the public  
the mutual jealousy of the different branches of the Legislature  
when they do not rise to excite or interrupt the course of business

Men of men who are jealous of each other will be watchful spies  
on each others conduct & none of them will suffer the other to trans-  
gress the fundamental laws of the constitution without notice &  
reproof according to the ideas of our government the Legislature  
& judicative power should be always separate or being thought  
too much to be entrusted with one branch or Body of men the  
sovereign being accustomed to command cannot be supposed readily  
to submit merely to interpret or to follow a rule An arbitrary  
government however the judges are the ministers of the so-  
vereign & explain & interpret the sense of his Edicts which are their  
laws from one another a judge by his office is supposed to  
be impartial so that though his sentence be reversed on  
an appeal no offense however falls upon him as the law  
constantly supposes that his fault has proceeded merely from  
an error of judgment but Eastern Nations  
judicature than an common  
in Europe Thus we are informed by Xenophon that when



Cyren pronounced a wrong judgment in a cause

ing to their manners & their notion of the duty of judges for  
we read elsewhere that when a person judge was convicted of  
Breaching or want of integrity in judgment the thing ordered  
his sin to be flayed off him & desired for a cover to the  
bench at which the superior was to sit

was continually before him he might anxiously attend to  
justice if he expected to speak in a whole sin or ordered to  
have any sin at all left him In the same manner in  
China

the first sentence of the superior court  
goes against the judge who pronounced it the friend against  
the lawyer who argued in support of it & the Judge against the  
party who gave the vote or who presided by the unjust  
sentences by the law of England all the sentences of judges  
being supported by the verdict of juries are never held to  
ground from malice or illiquity of contention particular  
cases are modified by circumstances that create preju-  
dice or excite passion if the sovereign were left to  
judge he having no superior might be actuated by



law w<sup>d</sup>. be apt under the influence of  
disposi<sup>n</sup> with it but the authors entertained very  
different ideas from us concerning the duty of

in person  
e appeals from inferior courts were heard e decided by the Em-  
peror

had the honor of hearing the apostle Paul e was of doing  
them justice the just torn Horatius in Livy when condemn-  
ed to death by the people for the murder of his sister appeal-  
ed to King Pullus

Roman Emperors were wont to hear causes in  
the courts of the temple of Mercury e when Philip of Ma-  
cedon once told a poor woman that he had not leisure to  
hear hear her cause she replied how then have you leisure  
to be King considering it as the chief duty of monarchs  
to hear

David in the Holy Scriptures e of Cyrus  
in Xenophon shew likewise that the business of education  
was considered as an indispensable duty of

our own times by the laws

of Denmark the King hears causes twice a week -  
the King of G. Britain receives petitions both with regard

to cause a claim though he does not personally  
perform any act of judgement but as the custom of  
the Court is that the thing without reading

of them to read as that Lord therefore proper to give him  
if he gives any attention to them it is by recommend-  
ing the matter to his judges the wisdom of Solomon was  
chiefly displayed in the personal exercise of judgement  
but in modern times it is thought best that the of-  
fice of judgement should be separate

for that purpose Princes may be serviceable to justice by  
making good laws by shortening the time of actions or

of litigation the present Emperors of Persia & the late King  
of Persia have been of the most signal service to their  
subjects by modifying & abridging their respective codes of  
laws it is commonly supposed however that most ar-  
bitrary monarchs connive at the length difficulty &  
expense of law suits in order that their subjects being con-  
stantly employed in contending with one another they  
never have any leisure or opportunity to unite in  
any design against the government the faultily



in every country are supposed to be especially numerous <sup>to</sup> ~~though~~ all pro-  
cesses of

influence rather than to ease her subjects that  
the late King of Prussia reformed the Code of his Kingdom  
in France just on always of an uncommon length hard to  
be brought to a hearing apt to be removed from one court to  
another the Spaniards found no better method for keeping  
the people of Naples in subjection than by employing them  
in suits

attention of the people from the proceedings of government  
for while Naples was governed by a viceroy it was subject to  
many rebellions so that a book was published more than  
100 years ago entitled the History of the 2<sup>d</sup> Rebellion of  
his majesty's most faithful City of Naples

obediently & mo-  
ny of them in low circumstances they used to be apt to  
quarrel with every order of government but the Spaniards  
by encouraging the study of the law made it so fashio-  
able among them

would if he were en-  
gaged in his suit already yet for the sake of the fashion  
in order to be like other people was obliged to buy a suit or two  
from some of his neighbours they have had less and  
haviour of that excellent prince Naples had a King of

judicature being apt to be swayed by faction & the preju-  
dices of the multitude the providing against cruminals by  
Bill of a tender

then making laws with a view  
out so that it is quite conformable to the genius of a  
free nation though the famous magna Charta of England  
widely admits of it in that clause wherein it is said that  
no man shall be deprived of his

Person or by the Law of the Land  
which alludes to bills of attainment this clause of the  
Great Charter has been ignorantly copied into some of the

which did not in

have freedom have all  
in earnest in the case of the Earl of  
& lately in a sham manner against

accusers but even private judges have been suspected of being  
influenced by faction thus King Charles the first prevailed  
on the most of his judges to approve of his levying ship-  
money without act of Parliament the judges on Transu-  
by the fashion of that Country

company though they receive  
private with a pretensions when private gentlemen are



introduced to the King of France the first question that  
the king asked them  
in which if they satisfied him he deigns to  
ask them

to the first that they have never been  
in his mind turns his back & takes  
no more notice of them this at least was the method  
of the late King now when supposed that he had been  
employed

given it in favor of the person who had  
been in his service rather than the other the judges in  
England

are generally supposed to be very  
compliant to the crown but a fixated order of men  
are at any rate more unexceptionable than a popular  
assembly Persons employed in judicature would pro-  
bably be swayed by their passions or by sollicitation thus

complaints of the conduct of the duke of  
Middleton his deputy in Scot-  
land he told Bishop Burnet that the people had men-  
tioned some damnable things as he called

Service  
It seems that he did not confound injustice or the oppression  
of his subjects  
which would have rendered him an excu-

ing headjudge of any such laws had been brought  
before him two questions may be put relating to judica-  
ture

First compared with regard to the first of these  
whenever laws are greatly multiplied the knowledge  
of law becomes a profession. when this is the case it  
is exceedingly inconvenient & indeed absurd that the judges  
should be ignorant of law as that must make the pleadings  
in a great manner an unknown language to them

Secondly determines matters of law as well  
as of fact it were to be wished that the knowledge of  
the law were more easily attainable & that knowledge  
in general were more widely diffused because of those  
obscurely that many causes are decided directly contrary  
to law through the ignorance or prejudice of juries  
& juriesmen but no judgment can be safely given at least  
in a cause

Those who are learned in the law the office for  
which counsel is necessary & that of pointing out the  
law & the whole law in any particular case but  
when the law consists mostly of precedents as in  
England numbers of these may be brought on both



The matter thus would be  
no better than a lottery because the Counsellor who has  
actually adduced the jurist incidents on his side might  
more diligence for ~~the~~ John Colleson of which the sta-  
tute of England

in his head or to be ready  
to quote at all occasions but persons who are not  
lawyers by profession may in the manner of the an-  
cient Roman judges & the jurists of England

to them  
It might be difficult however in many cases

of law when a much pains had been taken on the  
one side to render it obscure to them as could be taken on  
the other in order to make it plain uprightly & can-  
dour of the greatest service on these occasions

for the  
most part but the Roman law had not attained  
any great extent in the time of Cicero as he boasts  
that by a short consultation of a lawyer he could make  
himself perfectly master of any point of law

& eloquence of the pleader than upon his skill or

The Law though Eloquence was often of little avail even to  
its Proposers

L

For justice a Law appointed by the public to hang the counsel for  
the contending parties within the bound of their duty & to prevent the mis-  
leading of the jury when the administration of justice is entrusted entirely  
to official judges it may be attended with the following inconveniences  
the official judge being a continual magistrate may entertain preju-  
dices

The peculiar preju-  
dices & partialities of the official judge may be known & they who enjoy  
his favour may be tempted to trespass in hope of impunity or to com-  
mune vexations suits in hopes of success & those who apprehend his  
displeasure may not feel themselves secure even in the possession of cer-  
tain innocence these objections have their greatest weight when  
applied to single judges but are greatly lessened though not ex-  
tinguished by large Courts of Judicature a single judge indeed may  
be consistent overbearing indolent or passionate he may confound  
the most intelligent lawyers by insulting behaviour & imper-  
tinent interruptions he may prefer his own ease & luxury  
to the painful duties of his office & when his prejudices are  
~~some~~ human others may know how to govern them by means  
of them but when there are more in the same Court the differ-  
ence of their passions & attachments may balance each other



may be useful either on their conduct but the passions even of a single judge does not necessarily infer an advantage in favor of one party but may sometimes be made use of by either at pleasure besides the fear of honor the love of fame & the fear of the eye of the public may be a great counterpoise to the prejudice of a judge when he reflects that both parties are attentive to all his actions & ready to draw the most favorable inferences for their several pretensions from all his words & gestures this may likewise prove an antidote to many prejudices it is true that invidious & passionate men may make the law & the office of judicial the instrument of their private vengeance.

"

"*Carmina arbuta quibus est inimica venenum.*

"*Grande malum ducit sequi se judice certet.*

On the other hand some men have indulged strong prejudices against all men of the law on general

supposed to have against the trust of the subjects & these prejudices against the faculty of Law often produce many unfair & unjust judgments with respect to their conduct The same common place prejudice are entertained by some people against the faculty of Physic as we may easily see in Montaigne & Moliere. M<sup>r</sup>. Butcher the author of Hudibras being always a very poor & often in debt supposed no small prejudice against the faculty of the



law as we see in his works and almost all our modern  
imposed unless to the like menant of their senses whenever

as there is indeed impossible to say but the bare mention of  
the clergy sets them at raving for the most part the cause  
of this passion cannot possibly be that these writers are not  
paid for their opinions as well as the clergy on the contrary  
very many of them & indeed most of them have received  
high gratuities from the public without being in the least  
aware of their raving against the clergy Mr. Hobbes had  
a liberal pension from government though the Earl of  
Downshire

being a year Lord Harbort was French Ambassador Lord Shaftes-  
bury held office under the government Lord Mordaunt was  
Secretary of State & Mr. Hume had a pension of 12.00<sup>£</sup> sterling  
for writing against the Christian religion

Clergymen in England except the Bishops were enjoyed for  
supporting the Christian doctrine in estimating the me-  
rits therefore of any profession more than

because of being led by general opin-  
ions or judging according to common place reasoning rather  
than sober truth & experience when we apply this rule



that as few of that order in proportion to their number have been justly chargeable

in the proper remedy against the professional men appeal  
in the proper remedy against the judgment of judges of the last  
resort in run the state will not want the benefit of a good  
administration of justice notwithstanding the judgment of inferior  
judges. The House of Lords in England may be reckoned a  
very impartial court but seldom an attentive or judicious one  
the members of that Court having the privilege of judicature  
merely by birth & being mostly devoted to dissipation & the  
pursuit of pleasure

judicature they generally give too  
little attention to the matters that are brought before y<sup>m</sup>  
or blindly follow the law

to prevent in any of them even to attend the  
house in order to do their duty or to divert a moment from the  
more important concerns of their raising cock-fighting cards  
& intrigues. The inconveniences arising from official judges are  
removed in some measure by the appointment of judicatures  
in the Norman form or in that of the jurin. The Jurymen  
of he is sensible of his duty & situation is equally interested  
to protect the innocent & to condemn the guilty. Some have  
been of opinion that juries may be properly intrusted with  
some measure of discretionary power to mitigate the



reason of the law or to supply the defects but juries have  
their prejudices as well as judges though they are not per-  
petual but merely occasional magistrates & an apt  
to use a great deal of discretionary power even though the  
law has not interested them with any & when they con-  
sider any law as hard or severe may find many ways

clear & strong it is a common case in England on charges  
of grand Larceny for juries in order to bring off the Pan-  
nel to swear that the goods stolen were under the value  
of 40 shilling. though they may be 10 times above that va-  
lue in order to refuse the charge to getty Larceny which is not  
capital It has been clearly proved to a jury that the depen-  
dant stopped the plaintiff on the high way & forced him  
to change half a crown & on his taking out his purse

<sup>offence</sup> that  
in total fear of his life he was obliged to  
ride off after having seen the dependant take his purse from  
the ground but after all the jury found that it was not proved  
that the Purse which the dependant took up was the very  
same with that which they knocked out of the Plaintiffs  
hand so

cause a jury that the  
dependant mistaking the Plaintiff on the high way gave -



of his whip. • that th. Plaintiff said was seen immediately  
covered all over with blood yet the learned jury found that  
it was not proved that the blood which was seen on the Plain-  
tiff's  
defendants whip, but that it might have been from some other  
cause or the accidental bursting of a vessel in the nose or  
the like it would be very difficult to produce any instance  
of prejudice in official judges equal to that of jury men  
Mr. Hume's Philosophy which denies that there is any con-  
nexion between the cause & effect was not then published  
but this instance abundantly shows of how great use that  
philosophy may be to corrupt judges & jury men when  
they want a pretence for perverting justice. The belief of  
the fashionable sceptic philosophy if we may apply the  
term of believing to men who profess to believe nothing is  
most dangerous for judges & jury men & may deprive the pre-  
sents citizens of the benefit of the best laws on the world

Roman judges & the official judges learn-  
ed in the Law may be said to be a modern though a very  
useful convention either very great subservience or great anti-  
pathy to judges on the part of jury men may in their turn be  
fatal to justice & the interests of mankind; but if the

Obligations

adhered to among the generality of the people jury men  
will often bear bad characters so that the administration  
of justice must be very imperfect

judges on the world. Experi-  
ence has abundantly shown that a dishonest ignorant or  
unprincipled

with as much impu-  
dence as little ceremony as the tool of a Despot &  
alas! with the same wisdom & safety because no jury-  
man is held to be responsible for the verdict or award

England that bad judges have seldom been restrained  
from perpetrating justice for want of justice to their minds &  
that good judges have been often interrupted in their admini-  
stration & obliged to neglect their duty by juries that were  
disposed to give every thing in favour of the crown

good laws & even the best of judges can be of no benefit  
at all to the public without integrity & good morals in  
the body of the people when a people are divided into  
several orders & classes as those of Patricians  
Knights & Plebeians Lords & Commons the Rights  
of one order would not be safely intrusted to the -



judged by his ~~Peers~~ however

the Peers to the judgment of the Commons  
providing only that one Knight who may be supposed as a  
middle party to be free from the prejudice of Lords & Com-  
mons

~~Peers~~ must be supposed to arise from different Nations & parties that  
in some cases they ought not to have the power of judging each  
other yet distinctions is so agreeable to the nature of man &  
so unavoidable in the nature of things that it has ta-  
ken place every where even in Swiss republics which  
are the best & the purest that we know of in the world

foundations of attachment & consequently

to the law & rights of individuals to be tried by  
our Peers must give the greatest security to an innocent

him to be perfectly easy when that is not the case besides  
the spirit of emulation which is excited by distinction of Rank  
& the useful fermentation which it excites in society are  
advantages which cannot be attained nor even conceived in the  
dead level of republican parity. This emulation produ-  
ces a high degree of activity a sense of honor & an elevation

of soul ~~in which the~~  
of soul in which this lowest rank may contend  
with the highest & this emulation not only

on the right of one another but prevent many crimes  
& species of bad conduct that naturally arise from mean-  
ness of soul & a disregard to honor & regulation  
with regard the second question concerning the num-  
ber of judges in court it may be said that in

of few members because those that con-  
sist of many members are apt to carry popular passion  
& party into the judgment & it is found by  
experience especially by that of juries that every individual  
in that case hopes to screen himself from censure when  
on judging falsely

& credit of the whole Body when a new sense  
of honor is not to be found numerous bodies of men are apt to  
encourage one another in injustice under a republican govern-  
ment therefore all bodies of men that are not incorporated  
for some communal purposes will be found uniformly to  
judge & act much worse than individuals or bodies con-  
sisting of lesser numbers for the proof of this let us only



imagination to those of a nation & then afterwards if it  
could be possible for them ever to think or whether there is any thing  
in the world that could make them ashamed now the circum-  
stances as well as the general prevalence of ignorance is one  
of the reasons why the generality of men seldom judge just-  
ly either in matters of right or in matters of fact having no  
character to support & being under no check or restraint  
from without either in the way of shame or fear besides the  
generality of a party must commonly live in error igno-  
rance prejudice & the belief of gross falsehoods no one is account-  
able for one is conspicuous above others no one has any to  
fear from wrong judgment all are tempted to heariness their  
party & to judge at dissection when innocent persons there-  
fore on occasion of unjust attacks upon their character appeal to  
the public for redress they must be understood to mean by the  
public not the generality of mankind but only the intelligent &  
discerning few who alone deserve that name who judge with  
reason & are contented with the truth but with regard to man-  
kind in general the character of every nation is in any  
measure partially  
precisely according to the nation that different parties form  
of him very high perhaps among some & very low among

there is often times without any good reason on either side  
on the casual judgement of the ignorant & that of men of worth  
upon the rumors of the worthless for such is the condition of  
human things that the most numerous court of Judication  
namely the public at large is always the most ignorant  
& enegatious one though it can be to no purpose for any  
man to appeal from ~~his~~ its sentence.

though possibly  
of another kind him the censure that are given by the  
public at large fall universally to the ground because no man  
applies them to himself but it is quite otherwise with re-  
gard to censure on the public

as he can thus in the praise  
that is given to our own country or country men every man  
considers himself as entitled to no small share of them  
but when censure are pronounced on our country every  
man puts them away from himself either supposing them

generality he himself has no share of the desert under  
monarchy on the other hand courts of justice are best composed  
of many men because here the influence of the Court is more  
to be dreaded than the fashions of the people in a republic it  
is the business of the judges to be a counterpoise to the prejudices of



only few are to be found that have either courage or inclination  
to do so but in monarchies the influence of the crown is so  
very formidable that single judges or small numbers of men  
cannot be expected to be able to withstand it & therefore the  
French Parliaments while they existed being numerous  
bodies of men

in that Kingdom such a number of men  
generally unanimous & without any personal interest hold-  
ing office under the King & yet standing up boldly in the  
cause of humanity & justice were not an object to be de-  
spised worthy a King of France

of no avail —

"Sed illos defendit miris junctaque armis phalanges.  
A single person or a small number of men have no resistible  
cannot withstand the influence of an absolute monarch  
when a poor Post was once offended by some verse of the Em-  
peror Augustus he was asked by some of his friends why  
he did not hunt against him

for writing against a man that had 18 Legi-  
on under his command"

"

alluding to the

Papinian the Lawyer suffered death from the Emperor.  
proscriptions

to an unjust Edict &  
in the faculty of the law the influence of the crown can  
step over all corrupt numerous Bodies than single men or a few  
as numerous Bodies even under a monarchy admit in their deli-  
berations of all that zeal & ardour that animate popular  
assemblies & even when they do not judge more impartially than  
single men might have done

The many which  
we have shewn to be sometimes so partial to justice in  
an republican government becoming salutary under a monar-  
chy as upright servants of the Crown as at the same  
time friends of the people when unaniman & con-  
siderate encourage are another greatly in support of  
the rights of mankind they feel a mutual inspiration  
from the zeal of each other & defy the terrors of death in  
company in the same <sup>manner</sup> as children who are very timorous  
on the dark if they are alone but boast like great he-  
roes when they are in company

Lecture

197 May

The Spirit of Faction which in Monarchies is the greatest  
corruption tends under monarchies to prevent a full quota  
one very servility to those in power that has been formerly offered if



all the simple forms of government have a constant  
tendency to change & corruption thus Monarchy tends to

that negative therefore must be in the soundest state  
when the spirit of faction is balanced by wisdom & the  
Prejudice of the few & on the other hand that monarchy  
must be in the soundest state when the influence of the  
Crown is balanced by the spirit of faction & the prejudice  
of the many a proper mixture of both serves as an  
antidote to the wrong tendency of each of these simple forms  
of government for as among young men these are most appro-  
ved that have something of the sagacity, steadiness & reflection  
of the old & among old men those are most approved that  
have something of the cheerfulness, spirit & doubtless of the young  
In the same manner these monarchies are the best which  
have the greatest quantity of the spirit of liberty in them  
& those Anglican or whigish best which have most of  
the spirit of monarchy

& the more paid without  
difficulty or reluctance on the other hand the miserability  
that there is to be found in a monarchy the former must  
it degenerate into a despotism & the more faction & con-

tempt of government that there is in a Republic the  
poorer must it fall into anarchy

extremes land at  
last in the same destruction and so that those cannot be  
friends to the republicanism or monarchy who encourage either  
of the two. The office of the executive power is to apply the  
force of the state to national purposes first to give effect  
to the laws & secondly to defend the community against  
foreign enemies. Even the collection of the  
just

authority of the laws must be in great danger of being despised  
especially in a Republic if no show of force can be made. All exertions  
of the force of the state its own Citizens must  
indeed be always disagreeable but may be sometimes necessary  
& for the want of it when necessary the state itself may fall  
into destruction. In most cases a government will be respected  
either at home or abroad only in proportion to the force that it  
can command or bring into the field at pleasure. As much of  
the Principle of Union therefore must be kept up in every state  
as will the Citizens either to submit to the laws  
without constraint or which will be able to produce a force



But to be

necessary is exceedingly comfortable  
the agricultural & good citizens must add greatly to yr.  
tranquillity but when the case is otherwise when the state  
has either no force at all or so little that  
a show of it for fear of tumult among the people  
good citizens must be filled with anxiety & have great fears of  
danger both from without & from within the execution or at least the  
execution must be exerted in either continual or casual  
& in case of danger from abroad it requires swiftness & dispatch  
In all wise states it has ever been thought advisable to have  
a constitutional force constantly on foot ready for any sudden  
emergency & continually disposed to obey & execute the orders  
of the Sovereign either abroad or at home but where this  
force is either totally wanting or to feeble when it is necessary  
it is not easy to see how a respectable government can be pro-  
served at home or how the citizens can be in safety from  
foreign Inroads many states are at a vast Expense for Garrison  
Fortifications & frontier places the Kingdom of France & G.  
has its extensive land frontier guarded by a double row of  
Bastions to keep & destroy all the

innumerable that

was when the Power of France was very low the Duke of Marlborough then at the head of a great victorious Army was urged by some about him to march his army to Paris lest he might like a royal Friend a prudent general that he know of a thousand ways into France lest that he knew of none out of it The success of the son of the executioner of a state may often entirely depend on the secrecy of its motion

command of it. On choosing proper people for that purpose consists a great part of the art of a state & the making with them a great part of its good fortune. The sovereign in Republican governments consisting of the whole people or of numerous Bodies cannot exercise their executive power there are some truths which though exceedingly plain

The necessity that there is of dividing the legislative judicative & executive powers on a republic. The power it is true is derived from the people but it must be derived actually from them to others before it can be applied to their benefit as they cannot exercise any part of it on their own persons. lest when any power whether legislative judicative or executive



contrary to good order to law & good faith for any one citizen  
or any number of the citizens to oppose the execution

delegated but it is their duty  
on the contrary to support & submit to the same for the good of the  
community as to oppose the delegate appointed by the people  
in the framing of supporting the people right of power is not  
only against reason & common sense but is treason against the  
state & a subversion of all order & government whatsoever that  
those possessed of delegated power should be degraded of it as soon  
as the stipulated & legal term is expired

during the time that  
they had the use of it is undoubted no man than reason but if  
during the time that they are legally in possession of it they are  
interrupted in the exercise of it by the people they cannot fairly  
be made responsible for the use of a power which they have not  
really been permitted to use at the same time the state may  
suffer the highest detriment by the interruption of the use of  
the power

Such large Bodied men as  
constitute or represent the sovereignty in republics cannot  
thus be continually assembled nor ready to assemble at all

than can be expected in any numerous or popular assemblies  
but the necessity of the people delegating their power & being  
subject to the person to whom they have delegated it

gave distress at such a time it would be most ridiculous  
as well as ruinous & impracticable.

resolutions of the popular assembly  
before any Member was tried to  
single person or small councils will then  
be able to do much in

armies & having power to control the authority of the ge-  
neral have been found to be very pernicious the commis-  
sioners of the State who attended the Dutch Stores in the army  
of the Duke of Marlborough

& the American Providers who controlled the operations  
of their generals have been a great misfortune the cause of their too  
long

absurdity for a State to employ a civil magistrate to control  
the operations of a military commander to be little less ridi-  
culous than to employ a military man to guide the operations  
of education yet not only the public but even some men of



grossier as till very lately

the French were wont to employ  
both on the supreme & the subordinate stations  
& the late Count De Grap was the first regularly bred seaman  
who has ever commanded a French fleet & was a Clergyman  
have been sometimes appointed to that office. In the reign of

of France & governed the operations of the  
French navy according to his direction while he enjoyed that  
office the De Bernong governor of Guienne

into his presence but was told by the admiral that he was busy  
in dispatching orders for the fleet

The Duke resenting such an in-  
dignity to a man of his quality & at the same time deeply  
jealous of the ascendancy of the Archbishop acting as admiral at  
France went away in a rage & when the Archbishop some  
time after waited on the duke for his former leave of absence

word that he was then reading a few chap-  
ters of St. Augustine & St. Jerome & that he would wait upon  
him as soon as he had done reading these chapters & when  
the

with a Candelabrum & wax candles upon it & in his  
hand by way of showing him in what manner an Ambas-  
sador ought to be employed rather than in presuming to com-  
mand the French navy officers that come in concert that  
admit of delay

select council guides the management  
of the public revenue negotiators & sometimes treaties but  
affairs that come suddenly & by surprise that will not ad-  
mit of delay must be committed to single men as to the  
magistrate or officers who have the keeping of the peace or  
the leading of the armies the ancient Romans were so  
simple of this that in times of confusion or distress when

they chose a Dictator with absolute power but as mankind are  
extremely apt to pass from one extreme to its opposite they mi-  
stake for any term to the Dictator's power or made him  
irresponsible

grew worse than the disease Sulla brought him  
to the brink of ruin by his very profusions but he saved  
him by acting wisely laying down his office upon that occasion  
He takes notice that Julius Caesar

for laying down the  
Dictatorship "Sulla"

deponit "afterward when he got the dicta-  
torship himself he showed his own maxim by turning



he totally overheard the liberties of his Country  
It is commonly when men born free by oppression or dis-  
appointment in some favorite scheme that they are apt to  
fling into the opposite extreme & give their consent heartily  
to things that grow

followed such persons are dangerous  
for public trust in any capacity a man ought not to expect  
to have all his will in every public deliberation & if he gets others  
to go half way with him he ought not to grudge to go the  
other half with them. Perseverance & attention & always doing  
something

for the public interest will be found to be much more  
profitable than a private & dominating temper that obsti-  
nately refuse to act unless it may have its will gratified to  
the utmost extent. This is a great

Republic & that is,  
evidently the reason why republics lose more advantages &  
are exposed to many more inconveniences from men of  
this unhappy temper than any other form of government

that can bear contradiction quietly & wait for fit opportu-  
nities of action is by far the safest for bearing public trust  
in commonwealths but men of this cast

For want of ~~moderate~~ <sup>unfettered</sup> acplibility & complaisance many favor-  
able opportunities of acting have been lost that could never  
afterwards be recovered thus when the Venetians

on time but as he was  
desirous to make the whole honor a success of the negoti-  
ation to depend upon a book of his writing he ordered his  
Embassador St Venue not to present his book to the Senate  
or to make any proposals till St. James' day which  
was then at a considerable distance

folly of the King to make proper concessions to the State of  
Venue so that when the Kings book & his proposals were  
at last presented the Senate gravely told the Embassador  
the King had already settled matters with the Pope & had  
now no occasion for his master's mediation —

Lecture 190. May the 9<sup>th</sup>. 1789.

Under Monarchy whether absolute or mixed the  
King is capable of every branch of the Executive but he ought



to delegate to others whatever may contribute to render his powers  
useful or divine

Object of respect & affection Many monarchs indeed have  
commanded their own armies in person with honor & success but no  
man professes all sort of talents

even though he may have some knowl-  
edge of military affairs may be very unfit for appearing at the  
head of his army & therefore ought to delegate that office to  
another The celebrated Nicholas Machiavel who is the author  
of the whole of the modern

Politics refused the command of the  
troops of the Duke of Tuscany when it was offered him a man may  
have a theoretical knowledge of another profession than his own  
qualify superior to most of those who exercise it & yet may  
want that extemporary bravery & composition of mind that is  
the necessary for reducing the theory into practice. A man  
by studying mathematics may understand Arithmetick very  
well & even teach it with reputation though he may not  
be fit to ~~steer~~ a ship or to keep a reckoning The celebrated  
Mr.

Newton himself  
his own reckoning told himself & never confessed to the sailors  
imagining that by his great skill in mathematics his reckon-  
ing would be far more accurate than theirs at least be-  
ing impatient to convince them of his importance and



What an unspeakable advantage it was to them to  
have a professor of mathematics on board confided  
to tell the sailors that in 3 days they would see land  
Thank you for nothing. master replied a sailor for the  
Cape already the Philosopher did not observe

Speculative men however may  
be of great service to the Arts & may sometimes even discover  
matters that have not occurred to those that employ them  
every day they are prejudiced of practice as well as of  
theory & those who are engaged in the practice of any art  
are apt to have too great a contempt for the judgments  
& observations of those that have never practised it but a  
liberal mind will never despise rational advice  
from whatever quarter it comes or treat it with disap-  
probation when he has fairly &

Mr. Clerk an ingenious Scotch

Gentleman

with such purity & ingenuity to the study  
of naval tactics that he has devised a system of that  
Science on rational principles & illustrated his maxims  
by the experience of those who have given the best accounts  
of the most celebrated naval actions that his system &



principles have been viewed with admiration by ~~the~~  
already tried & actual

necessary for the person who is to conduct the executive  
force of his country in delicate emergencies though these talents  
may not be equally necessary in time of peace or to a person  
who is destined to act under the inspiration of an exalted  
office the punishment of Criminals is a part of the executive

yet it is necessary that  
the executive authority of the sovereign should appear in  
at least a collateral office. Should presume to take away  
men's lives who had not been condemned by the laws of their  
country & this is no doubt one of the most dismal & disa-  
greeable parts of the duty of a sovereign & however neces-  
sary must of necessity be executed with compassion & make him some-  
what unhappy in his situation who would have thought  
that it was ~~adversus~~ who when a death

"villain

"But the honor of this ought more properly to be  
given to ~~Seneca~~ because this happened in the person  
Quinquernum of ~~St. Louis~~ while he acted entirely according  
to the advice of that Philosopher on the other hand the



quency of pardon & charging of sentences  
acts ought to proceed immedi-  
ately from the person of the Prince as the order of society  
cannot being preserved while an ill opinion of the Prince  
or executive Magistrate prevails among the people &  
therefore all due methods of preserving a good un-  
derstanding between them ought to be embraced the  
abuse of the executive power are variously restrained  
under different constitutions thus in England they  
are commonly restrained by the short duration of office  
& authority in the person of any individual or by the  
vigilance & emulation of his competitors if not by  
his own virtue & moderation but they ought where-  
ever to be restrained by strict responsibility & by  
the approbation & disapprobation of a candid & intel-  
ligent Public the annual magistracy of the Roman  
Consuls was designed to prevent the evil consequences of  
long continuance in office other free states adopted  
methods not very dissimilar for the same pur-  
pose M<sup>r</sup> David Hume in his prospect of a perfect -



to bring them to answer for their conduct  
in it & tho he allowed this alone the privilege of impeachment  
yet as the court was supposed to consist wholly of  
unbiased or disappointed candidates for the same office  
it might justly be expected that their confirm would  
be accompanied with a considerable degree of strictness  
of ascertainment but without the formality of a Court of this  
kind there will commonly be many persons abundantly dis-  
posed to confirm the conduct of the executive & to cano-  
nize & justify the conduct of its officers but the greatest  
loss is when officers are not made responsible at all

whatever as has generally been the case hitherto in all  
the United States. This circumstance more than any  
thing else tends to render officers careless & dishonest &  
prone to form & occasionally indulgent to others ac-  
cording as they are disposed because they know very well

on end to all government what power or influence it  
can have but this has not been permitted but even

applauded  
a land of Liberty If a person in public trust  
have real virtue & moderation he will indeed spare the  
public the trouble of inquiring into his conduct by giving an  
honest & candid account of himself of his own accord for the  
reputation of his character but public Caus & consti-  
tutions ought never to suppose that any man is honest or  
dishonest except according to the testimony that arises from  
his conduct on the contrary

even acknow-  
ledged good men ought to give the same security for their  
good behaviour & their conduct ought to be examined with  
the same strictness as that of those that are known or sus-  
pected to be of bad character. & the

executive do not  
give security to the public for the performance of the  
duties of their offices or when they are not made respon-  
sible for their actual conduct in them the least of these  
errors prevail most in this country & the first or Great  
Britain where there is an act renewed every year for  
more than these 30 years past allowing a further  
time which is always understood to be a year to such  
persons as have neglected to qualify themselves for office



purpose. This act was first devised by Mr. Pitt & some of  
the old Tories who in order to encourage the employing

Stewart family  
continued this way of admitting them into the service of  
the Crown without requiring them to change their principles.  
The consequence is that very great numbers of officers in every  
department of government are uniformly possessed by  
the friends of another interest a family who have never  
come under any engagement to the King or constitution  
& who might without the guilt of Perjury have joined  
in restoring the heir of the Stewart family whenever

ought never to be imitated because it exposes a go-  
vernment suddenly to the almost dangerous ques-  
tion a temptation to our laws it without being guilt-  
y in their own opinion of perjury or rebellion yet the  
same hazard

into office without making  
profession of any religion or swearing any sort of the obliga-  
tion of an oath. The same things are ordered so differently  
in England in this respect that every person whom the

Things Employed in

to produce an extract of his Treatise & to take the sacrament 4 times according to the Canon of the Church of England those who have no doubt the

possessed of a high sense of honor & of a love of the public as well as deeply sensible of the importance of the office committed to them to whom

been safely intrusted some of the most important powers of government both in Scotland & those were absolutely discretionary & left the officers that possessed them almost under no other restraint than that of his own moral principles so high a degree of confidence must men in these times repose in the action of individual citizens who then lived along as much with each other in discharging their offices with honor & profit to the public

& cheating the public being confident that they will be called to no account when men are found whose characters render them worthy of great trust the public will uniformly be left forced but even in free monarchies

character. Some degree must undoubtedly be run on the part of the public otherwise



No proportion exactly to every man's character the degree of trust that is fit to be reposed in him would be an endless & impracticable undertaking. • Therefore the degree of trust must be proportioned

among men so that some may have too little & others too much power entrusted to them in the very same office regarding had to the difference of their character, but no man is wronged by a moderate or average

of meddling characters who may be rather true as respects to the public in the discharge of their office than in common life a real good man deserves on account of his character to be trusted to any extent

every man on account of his character ought not to be trusted at all but on the real characters of men a hard to discover a moderate degree of trust must be established

otherwise • on the other hand both good & bad men ought to be obliged to give equal security for their upright behaviour in

their office. Then in common life a man would not  
be a real honest man if he should refuse to give the  
same security for fulfilling his contract

either in pub-  
lic or private business may be legally suspected of an in-  
tention of cheating because a man who really designs  
to cheat himself

that he will actually do so  
whenever those that propose to deal safely will be dis-  
posed to be bound that they may cheat with the greater  
security

some manner that the law pre-  
sents for men of a meddling character than those who will  
give no security whatever may have been the splendor  
or pompousness of their former character or profession

must necessarily be entrusted  
to one person than must be great discretionary pow-  
ers conferred along with it because without these the  
person who is entrusted cannot adapt his general orders  
to particular persons or affairs & moreover a com-  
mander of an army must not be under the necessity



army or perhaps of the whole state may  
depend on the fate of a single day. great property as well  
as great value appears in the highest list of where dif-  
ferent powers are allowed but on the generality of men  
are so unfit to be much trusted these powers ought to be dealt  
with a sparing hand & never granted except when the  
will of a State necessarily requires the commu-  
nication of them yet it has been found by practice  
that even the highest discretionary powers have some-  
times been delegated without the least loss

c a

first regard to moral obligation thus the powers the  
Roman Censors were immensely extensive & extensive  
many they could deprive any of the citizens of them  
of their office rank & privileges in a most summary  
manner & without appeal yet we do not find that  
thus the office was proved in the smallest degree dan-  
gerous or prejudicial to the Roman republic on the  
contrary this magistracy was useful to the last  
& never produced any bad consequences when accord-

ing to our modern theorists such an office would have  
been well under

of the Citizen so great is the dif-  
ference between practice & a real knowledge of human  
nature & the dynamy calculation of speculation &  
superficial calculations unacquainted with true philo-  
sophy & history form images that when mankind  
have a great deal entrusted to them they make them

really happened unless when they were honest & gene-  
rous before the good consequences of immoderate trust  
have uniformly arisen

The persons that were so highly  
trusted rather than from any effect of great trust in  
making people men honest than they were before  
In men has the abuser of the executive  
rather than in  
all constitution they are best restrained

to the Executive but for the very reason  
the knowledge & rights of particular persons ought to be dis-



States without exception. "Salvo jure capitalis" ought to  
be understood in all commissions cordons whatsoever because  
no man ought to think that he has it on his power by any  
commission to transgress the law according to the ancient  
addage "Id tantum pejussum"

But the  
people so carefully for the most part the privileges of  
its rank that a mistake in this kind is scarcely to be  
expected. The Roman Citizens were exempted from tor-  
ture & capital punishment in all cases whatsoever except  
that of Treason

take their word unless the contrary could be proven hence  
Lucius brought his suit against Verres for having caused

while he was Praetor of Sicily though he  
asserted with his Cast knoth that he was a Roman Citizen  
now if any proof had been

by evidence it would not have  
enough in the Praetor to have treated a man as a  
Citizen when he had brought no proof that he was one

to scourge the apostle Paul. He immediately left off  
when he told them that he was a Roman Citizen

authority was an insupportable pri-  
vilege to a Roman Citizen & this too contributed greatly  
to disarm the rage against the power of all subordinate  
governors & this

yet in a late law in England  
that was made for the protection of Dogs on occasion  
of a Dog being stolen belonging to the late Prince of  
the Wales

these animals by whipping  
& if a man thought himself aggrieved

quarter Session 10  
days after he had been whipt lost his right of appeal &  
have being still left up to him if hanging had been

times that the important concerns of the English Dogs had  
had the honor of outstepping

was 1756  
while the nation was violently alarmed with the fear of  
an invasion from France the Parliament were seriously



that the apprehended from the  
mighty operations of the French nation. The

officer having  
from custom become so invidious in the opinion of the pub-  
lic the State can receive little Benefit in this way unless  
all officers on their going out of their power

at all or at the instance of an official one or "Clementator  
publicus" unless the fashion could be avoided among  
in that one prevailed among the Romans.

introducing  
themselves into public life & public notice by accusing some  
remarkable defaulter in the public service

law in the latter  
way many Roman families contrived to perpetuate their  
names where.

*Simprovia cornelia falcidia cornia aquilia* & the like  
which we still find in the civil law in England it has

public office who could afford to give them a great deal  
of money to desist from the accusation & to desist from  
Accordingly when they had got as much as they could

in the East Indies till the culprits compounded with  
their accusers & gave them as much

governor Hastings & supplied by former  
be of the same nature &c.

The great wealth of Africa  
ground fatal to the Roman State & they  
not yet appear  
that it has as yet produced all the efforts that might  
be expected from it — — — — —

that is committed to the discretion of the executive may likewise  
contribute much to government affairs

Soldiers devoted only to their leaders na-  
turally appear very formidable to the citizens of a free state but this  
fear ought to be greatly lessened when it is considered that these sol-  
diers themselves are citizens who have given pledges for their good be-  
haviour & are under the absolute command of the magistrate  
Some Magistrates encourage foreign troops as being more obedi-  
ent & discourage their own citizens from entering into the



Such & their seamen are mostly Danes & Dutchmen the  
troops of the Misdelle of Venice are likewise mostly foreigners  
& what is worse they are commonly under the command of foreigners  
is the jealousy of the Venetian Aristocracy. disencourage their ar-  
nobility for serving in the army or navy of State with any hopes  
of preferment for fear that they should in this way become more po-  
pular & conspicuous for the same vile reason they affront & ruin  
every brave man who has served them with success & honor lest  
he should become too popular & attain the influence that may  
be formidable to government The Tyrants who subdued the Greek  
Colonies or Republics generally did it by the aid of mercenary troops  
It was indeed something to the credit of the Greek

Tyrants that wanted to in-  
fluence their country but they often did the same thing in another  
shape by their own factions which misfired & banished one ano-  
ther alternately as they had it in their power. A standing army &  
a tyrant may indeed be terrible but the same army under the  
executive magistrate of a free state ought to inspire no terror at  
all as their power is only the power of the Lord & the defense of every  
man's rights as well as those of the state of Government when soldiers  
are not considered by custom or popular opinion as quite dis-  
joined from the rest of the community & engaged to serve for life



they are more apt to be hostile to liberty & easier influenced  
to act against the rights of their countrymen than when they

The great difficulty of raising  
or maintaining armies in times of need occasions their being enga-  
ged in many broken engagements  
whereof the majority of that country have been guilty to those  
who were enlisted for a limited time must under the influence of  
the education  
which they give to a soldier their separations them from all their  
connections their training them by the whip & to per-  
form the motion of Puppets & the their  
degrading them in a manner of all  
or activity except what is inspired into them by their words  
of command or military music their teaching them to follow  
their colours mechanically their removing them from the ordi-  
nary labours of society & rendering them in a great measure a fi-  
cial men.

of the Society & constituting a quite different interest  
their uniforms & their arms as well as their discipline continually  
suggess to you that they differ from others & their being separated  
from the rest part from the rest of the citizens & generally confined  
to the party of each other tends no doubt to deprive them of



many of the prejudices & habits of Citizens

manners & amusements

& thus are come to be treated as a sort of foreigners within their own country men on which account the interests of the rest of the society become very indifferent to them for this reason it is found that in times of war the peacable citizens commonly suffer as much from their own armies as from those of the enemy as the Prejudice of Soldiers against Citizens joined to those of Citizens against them often give them very loose notions of

that his merits

find leniency on every side he does not mean that they would do any thing extraordinary or which had not been done before yet when the armed force consists of Citizens & is under proper discipline they will find that it for their interest will

excite but worst

the Soldiering & the rest of the citizens none can say how far it may go or what effect it may produce on the affections of country & kindred may be overcome by prejudice or can be cured by injury though insult may be offered the Soldiering they do not use their arms without order & they have no other resource so that their behaviour must greatly depend on the character of those that command them but when Armies

consist of men of moral principles & an under good discipline it is surprising how much they may be restrained from doing the least injury to society

any laws for the quartering of soldiers the law indeed supposes that they have quarters but it provides none for them & all that they have in their way is men custom & toleration. in Spain on the contrary the soldiers have such privileges by law that they act as the masters of every house that they enter & that the English have lost the right of the soldiers quarters & that they indeed have had rather

great quiet the libelous & abusive of each other while the

business they may be quite harmless to the constitution but one circumstance with regard to a part of those that are informed in the process of government in every country threatens

barrows & commonly under their

colours from one of these to another to vote for the candidates now many parties of these soldiers or sailors were to do the same it would

restrained from coming within 12 miles of any burrow or County town during the term of an



than a real infringement of it & the manner in which troops be-  
have or which the national force is conducted & managed be-  
comes thereby the

quintessence of a state. All that now remains of our Plans  
is to take of that substance of the subject

with their political

conduct. It may appear from a comparison of the fact as already  
stated in the history of the Spaniards with what is now stated as the  
lack of political ingenuity that men generally accommodate  
their establishments to their actual circumstances & that on the  
supposition of such circumstances there is little room for  
immediate improvement thus men of probity & courage  
especially in small communities have commonly recourse  
to regulate their government more distinguish

& actuated by sentiments of

Honor have generally ranged themselves under ornaments  
for that inspiration of their respective Masters  
& very large Empires continue to be governed as they were  
originally formed by force the infancy & origin of nations

on account of their antequity & ignorance of the arts is  
commonly very obscure & in most cases almost totally unknown  
another cause which concurs to the same end is the vanity of  
most nations who when they have become antient & confi-  
derable commonly throw a veil off ~~the~~ fiction over the  
beginning of their history in order to make their origin  
appear more respectable "misferis humanis

*rerum augustiora parent*"

Justin Champ offers that the war the cause of the fiction  
that Cyrus the founder of the Persian Empire was raised  
by a Bitch & Minotaur & Minus the founder of Rome  
by a she wolf. the vanity of nations when arrived at  
wealth & power & their endeavours to give themselves a  
very remote & honorable original is to be discovered  
almost in all histories antient & modern The Trojan  
war was the most remarkable antient event in which  
a great number of the Heroes of mankind

*notations*

& dispersion of men many nations endeavour to derive their  
origin from some of the Heroes that are mentioned in that  
traditional history Mr. Voltaire has an ill-natured observa-



tion on the subject he end  
parallel with the romantic account which the Greek his-  
torians gave of the origin of this republic states the detail  
which M<sup>r</sup>. Bochart has given of us of the first settle-  
ment of mankind after the flood in his

M<sup>r</sup>. Bochart in tracing the  
progress of the Phoenician Colonies & the origin of the most  
ancient nations makes use of the Etymology of ancient  
names compare with remote traditions to ascertain the  
origin of various nations from the several persons that  
are mentioned in the genealogy of Noah's family & their dis-  
ciples as related by Moses. He says that M<sup>r</sup>. Bochart has  
done with Noah as he what the Antients did with respect  
to the Trojan war namely that he has endeavored from  
a little truth to authorize a number of fictions

of the Romans  
who were otherwise their great admirers but Mr. Voltaire  
having no acquaintance at all with the Oriental Lan-  
guages nor even with the Greek ought to have been much more  
modest on this head as he was thereby extremely inaper-

like of jud

& therefore endeavours to snarl at his deformities  
though it was impossible that he could know anything of the  
matter by comparing him with those bad deeds of the Greek histo-  
rians

of the war of Troy but it was still more impudent  
for a man so blind to judge of a language or argument  
he could not possibly understand & were the greatest admir-  
ers of Voltaire cannot contradict him

in his philo<sup>sophical</sup> dic-  
tionary under the word misanthrope in order to make a show of a  
pen of learning, when it is certain that he did not suppose he  
says that misanthrope in Hebrew signified the same thing as

happens to the integrity of  
his own making it not being possible to find anywhere else the  
greatest part of nations so far as we can trace them are de-  
fended from barbarous interests who have at different times

exalted more pleasurable & endastrous nations & settled in their  
stead & in order to cover the scandal of their own conduct have  
invented a vanity of fathers to render their origin somewhat  
more venerable but we ought no more to wonder at this  
than at the vanity of many individuals who after they



of this family from some illustrious & conspicuous persons  
mentioned in the history of former ages in order that their  
family may ~~not~~ soon be have nearly obscured at rather  
but barely to have recovered the splendour of its progenitors  
in the same manner as in the law of England where a  
man buys an estate

was originally his by descent

to restore him to the possession of his ori-  
ginal rights In like manner Theodorus Atticus a Greek  
Philosopher in the time of the Emperor Adrian having for-  
tunately found an immense treasure that had been con-  
cealed

from Achilles as well as Alexander the Great &  
counted all the Evil gods among his progenitors but the  
most ancient family that we any when read of is that

descended from the Devil & not only  
bears the name of his great ancestor too signifying

represent him in his coat of arms The Pap-  
al states appear to be the most ancient of which  
we can discover any monuments or traces the hunting

State that preceded it in many parts of the world

Pastoral nations have been generally migratory & it is only from the time of their settlement in their becoming stationary that we can trace the arts or the memorials of past actions among them & their settlements

useless in the history of the present States which is given us in history we see all these gradations distinctly & it is not improbable that most other nations have passed through the same stages & which made of it monuments to themselves by useless though none of their gifts

as  
of them. As that of the two ancient nations have not however been able so far to distinguish the history & origin of nations or not to have a few traces of aboriginal or more ancient inhabitants which were exterminated or subdued by those who had superior & dwell in their stead the Athenians could pretend to be aboriginal but all that we can infer from that is that probably the Country of Attica was in a great measure desert at the arrival of the first migrating tribes from Asia & Egypt



start of human antiquity & accordingly were  
the effects of a Crescent

but when we consi-  
der the few broken monuments that we have of the history  
of most nations we will find that they have come to our  
knowledge in different states & stages of civilization &  
that more changes are discernible in some of them  
than in others.

stationary & without the least improve-  
ment or alteration in their manners or policy through the  
whole period of human history. Thus Herodotus's description  
of Africa might serve for the present age because no al-  
teration whatever has happened in the manners & policy of  
that people for 3000 years backwards. The same might  
be said of the Scythians or Sushians though they have at-  
tained a higher degree of civilization than the natives of Africa.

to our notice in ancient history must have al-  
ready passed thro some previous stage of civilization or  
they generally make their first appearance in possession  
of some regular policy.

of the history of mankind which has been actually written  
e-confined to memory is the most interesting of all others  
so that we need scarcely to regret the loss of that which has  
not been recorded as the detail of the war of many centuries  
among a people such as the ancient Germans described by Tac-  
itus

of Barbarian people  
only display the corruption of human nature & the  
horrid progress of Privilege & art. among such a people can  
be scarcely if at all discernible

Lecture 200. May the 13<sup>th</sup>. 1789.

The

political conduct but so far as they can be discovered they seem  
generally to have arisen from their peculiar circumstances these  
certainly determine the extent of their powers & must have had  
considerable influence on their first political institutions Those  
men whose superiority of talents to the rest of others was acknow-  
ledged & established by their former actions commonly found it  
an easy matter to get themselves acknowledged as sovereigns by



by them or who possessed the same talents in an inferior degree. now an  
monarchy in the most simple form of government we find that it then  
been every where the most ancient & that all the others soon have  
spring from the ruin of it after it had degenerated into despotism  
as there was not probably any great variety in the uniforms of  
ancient nations & tribes of men so probably there could not be  
very much variety in their history & adventures hence arise the  
great similitude of the beginning of the histories of most nations  
amidst the gloom of obscurity & antiquity we are first made to  
describe an illustrious personage so that we may less wonder at  
his abilities & extraordinary qualities is represented as descer-  
ded from the Gods or conducted by some deity & making a  
settlement at the head of a band of Emigrants then they common-  
ly obtained by violence after having displayed prodigies of valour  
in engagements with the Marbanans who are represented as very  
warlike in order to raise the character of their conquerors  
the invaders at last by the wisdom & valour of their chief  
exterminate or enslave the Marbanans overcome sundry neigh-  
bouring tribes & their commander makes alliance with great  
powers & becomes the head of a powerful great Empire.



Something when this  
comprehend the general outline of the history of  
most nations conquests dissensions rebellions confederacies & chan-  
ges of government are the most usual events in it while  
in the mean time arts & sciences are only accidentally men-  
tioned or mentioned at all but military qualities make every  
where the greatest figure in it & moral virtues either do not  
appear at all or are thrown into the shade hence the reading  
of the early periods of history is generally dry dull & uniform  
& only fit for the curious & peddling antiquarian the inquir-  
ing philosopher or the diligent genealogist but on those  
changes that took place in government no particular order can  
be assigned in which the several simple forms succeeded one another  
yet regularity have generally succeeded to Monarchy when Charon-  
ides & Aristogiton had slain the East Tyrant & others

had the appearance of a monarchy in their annual archons Solon  
indeed endeavored to correct it but Peisistratus won in his lifetime  
again seized the Tyranny the people indeed were prone then ripe  
for republican government yet from consciousness of the sweets  
of independency & imitations of the virtues of their deliverers



became better fitted for afterwards a happy men for the  
inhabitants of the country if they would be wise enough to take  
the same course. Perpetual have been chiefly remarkable for re-  
cruiting a good multitude of virtuous citizens who have re-  
deemed their country from obscurity though they themselves generally  
experienced the very worst usage from their fellow citizens who would  
have ever heard of the Grecian Perpetuals were it not for the names  
of Salon Lycurgus Meluade. Themistocles. Argefilus. Ep-  
menondas. Penetes. Alabudes. Socrates. Conon &c

• a number of others of whom thus nature  
countries was not worthy. But the state of the arts in the Greek  
Perpetuals was one of the most remarkable circumstances in their  
history especially when we consider the very little tranquillity  
that was left for the study of them by their frequent wars & factions  
perhaps the spring & excitement that was given to the human  
faculties by danger & alarm might somewhat contribute to the  
question the effort of genius & the rivalry of different states cer-  
tainly contributed no small to the production of these ran-  
dals which have perpetuated their fame among posterity we  
know that monarchs as well as republics were frequently en-  
gaged in wars yet the progress of the useful as well as of the  
fine arts does not seem to have been very considerable under



the ancient monarchies at least except in that of Egypt  
but whether this happened from want of laws & Statutes  
in the monarch or from something arising from the nature  
of monarchy is hard to determine. Some indeed have preten-  
ded that the security afforded by a republican government

fine arts can flourish & they generally quote ancient  
States were mostly under republican government & also that  
the Sciences & the fine arts flourished to a high degree among  
them cannot be doubted but whether the first of these circum-  
stances had the chief share in producing the second is the  
great question. There may indeed be question in what  
most of the Citizens may be men of good & fine sentiments  
incapable of honor & incapable of ambition so that arts  
& sciences cannot be expected to thrive among them &  
on the other hand the bounty of a monarch when  
he happens to be a man of taste may beflow not  
only liberally but be sure & opportunely on a number of men  
to cultivate the arts & Sciences with success very little  
of the wealth of republics especially in later times of the  
world has ever been laid out for the improvement of the



both by their wealth & by the favor & approbation that they  
have given to learned & ingenious men have done a great deal  
for the encouragement of art & Science thus it cannot be doubted  
that Lewis the 14<sup>th</sup> of France did much more for art & Science  
in the course of his single reign than the whole Roman Empire  
for the 500 years that it lasted from Nerguin to Julius Caesar it  
is more probable therefore that the culture of art & Science de-  
pends upon the state of domestic economy among a people &  
the notions which they happen to entertain of dignity & excellence

Tranquillity, Moral plenty, temperance & a taste for elegance &  
excellence appears to be the great support & encouragement of  
Science among a people that have not yet attained to any high  
degree of civilization but if a Tribe of men are either so indigent  
as to be only able to earn a bare subsistence or so addicted to vice  
& luxury as to be generally indolent intemperate or degraded in their  
minds by superstition poverty or slavery the study of art &  
Science will not flourish among them a fruitful soil together  
with frugality, chastity, the love of steady industry & a desire  
of excellence will always be favorable to the culture of art & sci-  
ence the state of this Country or some of its inhabitants



were only more informed by virtue & animated by industry  
might certainly be as favourable to the progress of Manufacture  
as that of Greece or any ancient nation & that we besides we  
have not the labour of invention to undergo as was the  
case with them & may attain an amazing degree of wealth  
knowledge population & civilization merely if we will not so  
lightly despise but condescend to adopt the inventions of others  
Despotic governments are generally the abode of misery &  
cannot afford tranquility or stimulation enough for the  
human mind to pursue the study of the useful & liberal  
arts but when they are introduced they are sometimes  
not quite extinguished even by the introduction of despotic  
government then in the East Indies - the useful & some of the  
more ornamental arts have remained for a long time not-  
withstanding the despotism of the government the same thing  
may be said of China where the industry of the  
people supports immense numbers without foreign trade

As quite otherwise with respect to science & to the arts  
to look for  
or Indolence unless the fragments of ancient traditions  
which are preserved in languages that are now dead & by them



accounted pains should be reckoned for such the great wisdom  
that has been attributed to these nations by some modern in-  
fidel writers appears to be entirely imaginary as no monuments  
of it have ever yet been discovered that deserve the least notice  
It is not the intent of a deist that men should think phi-  
losophize or enquire into the nature of men & things reason  
wisdom & elevated sentiments being totally unfit for the state  
of despotism & tend only to render them more miserable or un-  
capable to obtain their liberty the greatest part of absolute mo-  
narchies have likewise commonly confounded their liberality to  
men natural freedom but have neglected or discouraged morality  
At the restoration of King Charles the 2<sup>d</sup> of England his privy  
council advised him to institute the Royal society in ap-  
pearance to encourage the study of natural philosophy and  
mathematics but in reality with a view to turn away  
the attention of the studious part of his subjects from moral reli-  
gion & politics thus an order was given however even in this  
country who have imbibed the very same principles with the  
privy council of King Charles

numbers & notes of quantity or labours & trifling arguments in  
statics or Electricity while they totally discourage the study  
of the Classic authors & the disquisitions of natural truth & self-

—hood

principles of true & rational Government. If their  
clamor should succeed & induce indolence & corruption of  
manners & the love of luxury would reduce us very soon  
under the yoke of despotism by the shortest way we mean  
by the abuse & wanton perversion of liberty. We do hope  
however that a number may be found among our youth  
who will not be contented with the mere speculation & barren  
parts of Science but will seek to know what is useful  
& improving what may elevate the human character improve  
the order & multiply the comfort of society & endeavor with  
regard to truth & error & a selfish & indolent Sophistry  
that concludes all doctrines to be alike in the same ruin  
of this country from which indeed it has much more to fear  
than from foreign enemies or all its other domestic ills &  
defects must disengage men & by the variety of circum-  
stances in which they were trained have exhibited a  
correspondent variety of mixed governments & the issue  
in every case has been such that when we cannot  
rationally change the character & circumstances  
of the people it would be folly to attempt any radical  
change in the government

can be changed?



is how far such a change is practicable? now if any thing  
can materially change the character of a people the gratitude  
of the useful art. the introduction of a rational form of govern-  
ment & the study of moral science must undoubtedly have that  
effect as shall the difference that there is between the most

order up is entirely owing to this what might be the  
full effect of the general & cordial reception of the Christian  
Religion on the happiness of Society & the character of a  
nation has never yet been sufficiently expounded because  
no nation has yet received that religion

corruption

of various kinds & degrees some well disposed people in Europe  
fondly imagined that when this country was raised to inde-  
pendency the worst might be exemplified in it the native  
influence of the **X<sup>n</sup>** Religion

circumstances & charac-

ters of the inhabitants of this country nor how far the most  
part of them were even from desiring such an event indeed the  
love of indifference & of believing nothing at all obviating nobody  
at all

passions and all this give way to industry  
upon religion virtue & honor there can be no material  
change in the government of this country the name of

liberty may  
intent / purpose / extravagance & impidity  
may rule notwithstanding with dispose away. It is commonly  
by little & little that the greatest evils & most material  
changes in the world have been produced of those who have  
renewed the seeds of knowledge

much as possible if good books  
are read & studied & seminars of learning frequented by a greater  
number & with greater diligence knowledge may by degrees  
creep into request

ancient prejudices may be conquered &  
many things that have been thought paradoxes may be realized  
of men not wanting to themselves

ambition of enlightening &  
improving their own country. Rome as the proverb says  
was not all built in a day & time is no doubt requisite  
in order to finish many important undertakings but it ought  
also to be remembered that time itself never does any thing  
but only affords opportunity for action. Prudence to be doing  
something which it passes silently on. Industry honesty  
& economy might introduce many other virtues on this  
train

from heaven  
will dispose  
& possess of activity & a sense of honor & the love of ex



= celtence

corruption in their  
several stations & to revive the grating of virtue & religion  
In speculation we form general views & look into distant con-  
sequences but the just maxim of sound speculation is that where  
matters go tolerably well we ought to be wary of change there  
an extreme on either hand with regard to speculation some would  
widely discourage it altogether & others innovating or changing  
too much the first of the extremes naturally prevails most un-  
der monarchical & the latter under republics Some are of the  
more & obstinate in opposition all attempts to change any  
thing in the constitution or form of government in a state  
that they would not even consent to remove an acknowledged  
quibble for fear of worse as they pretend their maxim is -  
"maius bene positum ne moveto" as if a real govern-  
ment could compose a necessary part of a good government or  
were less worthy of exultation & condemnation for having  
been long established others on the other hand are fond of con-  
tinual innovation & no sooner is any law made or any form  
of government established than they endeavour to defend it cir-  
cumspice it before any proof has been had of its real tendency  
& consequences if therefore it be supposed as it may be with  
good reason that an itch for political innovation is dangerous

1. mankind I must be when it is not supported by know-  
ledge or attended with reflection & attention to the bad consequen-  
ces of perpetual change but an inflexible vigor on the one  
hand & a continued tendency to change on the other are both  
of them vicious extremes & ought equally to be avoided by wise  
men. The Medes & Persians with an unrelenting & unrea-  
sonable severity made all their laws unalterable & the English  
in many respects approach to this vigor though their consti-  
tution admits of repealing Statutes. "nollemus leges anglice mu-  
tari" is however the common motto of their administration  
In the reign of Henry Charles the 2. when the nonconformists  
complained of sundry laws w<sup>ch</sup> in their opinion were  
contrary to the rights of mankind the court frequently  
acknowledged that there would be no harm in repealing  
these laws but that it became the dignity of government  
not to consent to any alteration lest it should seem that  
they had either changed without reason or that they had  
been in the wrong hitherto besides the alleged that of  
men who defend a change were gratified in one thing they  
would proceed to ask changes in many others & that therefore  
it was necessary to deny their first request that they might  
make but such desperate unaccommodating



policy & tends to alienate the minds of the subjects. Moderation  
& wisdom ought to lead the rulers of State neither to resist  
a reasonable gradual change nor to lay the essentials  
of their constitution open to the hasty experiments of quacks  
& political projectors: The ignorant are apt to  
with the best constitution as to endeavour to reform the worst  
In general they are tinacious of custom this in some  
particulars they are  
various modes & appearances if often indeed stand as a con-  
tinual obstacle to disputes & hurtful constitution asserting  
it to be absolutely perfect & incapable of a change to the bet-  
ter & it sometimes appears as a entire one new consti-  
tution offering such amendments as if admitted would over-  
turn entirely a governmental together of this nature are  
these abominable proposals of a

of all conditions a  
scheme that is destruction of property inconsistent with rational  
liberty & tending to reduce society to the greatest misery if it  
were only admitted for a few days to all alterations of this kind  
every good citizen ought to make the most determined & in-  
dignant opposition while they listen with patience to every pro-  
posal of change which is consistent with justice & the great

ends of government the Genius of mankind leads to profusion  
Every order of mind Every individual always apprehends  
some inconvenience which they wish to remove or some  
advantage <sup>that</sup> ~~which~~ they think they would gain & they would  
willingly break thro' every form to attain their own ends  
grievances & irregularities in government when continued  
in practice for any time have one of two effects one either  
become reconciled to them altogether & persuaded that things  
could not be better ordered or they become impatient to have  
them removed & apt to take irregular & violent methods  
for that purpose thus the Plebeians in Rome suffered  
the Patricians for a long time to usurp all the honors of the  
state to themselves then they insisted for tribunes &  
lastly for a commutation of all the honors of the state now  
if through impolicy or regard any of these demands had been re-  
jected it might have been the ruin of the state & on the other  
hand the complying with their request with regard to an equal  
division of the land might have had the very same effect  
so much wisdom

Arts commerce & Population according as they advance or decline  
give rise to new circumstances & suggest judicious arrange-  
ments the changes in manners laws revenue & administration  
occasioned by these circumstances must be obvious to every



attention of observing the affairs of men Thus the circumstances  
of Rome in the age of Augustus must have been vastly differ-  
ent from what they were in the time of Evander & the

opinion of the  
salary of officers were the same in times of wealth or in the  
poor beginnings of a state it could not expect to support its  
dignity or to find men to defend it in some cases however we  
find that no allowance has been made for the change of times  
The Pay of the English army

ago yet it was raised to this  
day notwithstanding the great alteration of times & the rate of  
States was  
probably paid at an earlier period being much less than the  
English yet the same rigor is observed in all of them & no  
man yet has granted the pay of a soldier in France is scarcely  
above

are made so that only one penny &  $\frac{10}{12}$  of a  
penny is left at the disposal of the soldier we cannot deny says  
Mons<sup>r</sup> Richer the smallness of the pay lost in the reign of  
Queen Elizabeth

so that the soldiers in her time were upon a  
level ordinary tradesmen & travelling men which is now very  
far from being the case but at that time the Royal apart-  
ments were commonly carpeted with straw or rushes & new

hay was only permitted at the Entry of an Ambassador  
his majesty used to ride to St. Pauls church on a Pillion  
behind his lord treasurers & she purchased the first coach  
& the first pair of silk stockings that was worn in England  
nothing

wood-factors that an used for such in the  
house of lords though the luxury of the times has now covered  
them with scarlet cloth In a new country regard ought to  
be had to the forms of the state & every thing ought to be  
adjusted on the most frugal plan that is consistent with  
decency till the increase of arts

of going too far & off sight.

ting the circumstances of the country but necessity has already  
called to some men passimory in public matters it would  
have been much better if it had taught us sooner to restrain  
our private expenses & immoderation The people under the  
oppression of great inconveniences are apt to break out into  
revolts & to effect great mutations but often happens  
that even under the oppression of the least inconvenience -

proportioned relief & in the course of time by small altera-  
tions produce a material & sensible effect nothing



unaccountable than the temper of the people sometimes their  
nature of government is perfectly wonderful & approaching to in-  
finitely & at other times their demands are reasonable &  
moderate & they will be contented with little but at other  
times again nothing short of absolute sovereignty

<sup>that</sup> ~~their~~ <sup>crimes</sup> ~~crimes~~  
will content them they always trust too much to their lead-  
ers but often have the misfortune to choose the very worst  
the voice of a people under a monarchy is generally mode-  
rate & reasonable & desiring to be heard & heard to but  
the voice of a people in a republic is often unreasonable  
prudent & disposed to the highest degree when they feel  
their consequence & find themselves able

<sup>unhappy</sup> ~~unhappy~~ <sup>crimes</sup> ~~crimes~~  
the resentment of crowned heads a good citizen under a  
monarchy will always be jealous & apprehensive of the influ-  
ence of the crown & a good citizen under a republic will be always  
on his guard against the mad & violent humor of the  
people as the latter are as prone to tyranny & injustice as the  
former of not checked by laws  
government the people often

make no kind of distinction between great & small  
matters & show as much zeal for trifles as for the most  
serious & important concerns this is likewise one of the or-  
dinary weaknesses of mankind thus Mr. Noilce

100 Crimes in redressing one small offence it is a great defect  
in justice however a proportion is not observed when punish-  
ments are not suitable to crimes nor is order at law to  
the subject in dispute it sometimes happens that the  
people are what the proverb says "giving up & found fault"  
that is they perhaps grudge the necessary taxes for the sup-  
port of government & at the same time

by exorbitant char-  
ges for law without the least murmuring now the rea-  
son for this is that they have a strong passion for going to  
law though they have no passion for paying taxes & they

but when they People have one prejudiced & digested  
a scheme of information to their liking their obtaining one  
part of it will only encourage them to pursue the others &  
in this course

retain or double the matter but they cannot  
hope to stop it and it is in the nature of man to ground -





this

• on the other hand a stiff adherence to certain general  
has no life

hastful or effort intestine prodigious attention to circum-  
stances & acquaintance with the nature & affairs of  
men are the best helps to a right conduct or at least  
will serve to guard us against fatal & capital errors  
a well informed understanding even in the worst situations  
may secure some happy effects though far short of that  
ideal perfection

to look for in the affairs of men there is  
nothing that men strongly distinguish from the spirit of the

extent of their several expectations the sou-  
lest looks always for perfection & is utterly disappointed  
if every thing does not turn out right & perfectly when looking  
on the other hand the real Politician is content to gain  
a little even though he lose a great deal & will exert  
patience & entertain hope of things are only in a tolerable  
situation though far short of what he wished for  
however & unskillful men will sometimes lose all  
because they cannot gain

business & acquainted



appears to lose something in order to gain a part & when they  
cannot obtain all their designs will endeavour at least to get  
what they can " Est quoddam prodebre tenus si non datur ultra  
Wise men will always be prepared for disappointments

Schemes to stake all upon a  
single event is very imprudent & never to be hazarded with-  
out necessity but to have always a reserve war in the worst  
work is the office of political prudence & it may give us some  
consolation that we have at least gained something when  
what we had is actually lost

" Mutat in milibus mulo albino unigena leu-

" Et in stitudo corporis fortune locavit —

An attention to time & occasion may sometimes enable us to  
write more of what we had lost & consequently  
in Caudwell designs is not only necessary in order to support our  
resolution but to discover proper means & opportunities  
of bettering our affairs " Nunquam  
the states friends

who therefore ought to have supported them,  
may find openings & opportunities in the course of time by which  
their endeavours though often abortive may at last be crown-

ed with success or at least not be altogether in vain the tor-  
tise in the fable by men perseverance reached the end  
of the course upon the hard which though far surfer was neg-  
ligent & inattentive - Political interests are those of all things  
which ought the least to be committed to chance our safety our peace  
our relation one to another our improvement or degeneration depend  
in a great measure on our political institutions by these our rights are  
preserved or violated & our relation to other made to approach to

flame crimes are punished or unpunished so that every man therefore  
can be indifferent to the political constitution of the country in which  
he lives his all depends upon the nature & administration of that  
constitution our characters properties rights & enjoyments of every  
kind depend not only on political constitutions but on the degree of  
life that is given to these by actual execution sometimes even  
under despotism a little lenity & few of the subordinate instruments  
of Tyranny may make the yoke somewhat lighter to the sub-  
ject & allay many of his fears but on the whole when good  
laws exist but are not executed good citizens are apt to despair  
& to experience the uncertainty & danger of slavery on the  
very bosom of liberty for if all the good qualities of the government  
be only on the laws & constitution & none of them discernible  
in the administration the subjects are not likely to be any  
better for them or one may call it a good government even



in the most despotic countries this is all the good that  
can be got of a government that wants an executive want of  
experience & attention especially in new countries

that they are one party & that matters cannot be ordered  
otherwise to have bad laws in a country is none at all in  
doubt less a very dismal condition but surely not worse than hav-  
ing the best laws of in the world in our statute books

to those Political institutions tend to heighten & augment the good  
as well as the bad the public  
manners may indeed be worse but are not likely to be any bet-  
ter in any country than the laws & constitutions a bad law may  
by the addition of the force of administration in executing it do much  
more mischief than could at first have been expected from it & a  
good law on the other hand if it fails in the execution may give  
much more dependency than if it had never been made but  
if it is animated by an active honest magistrate may likewise  
do more good than we looked for from it Human affairs  
in some instances tend to improvement & in others to corruption  
& the institutions of men in one of these cases promote their  
improvement but in the other hasten their corruption & then

already been a long controversy  
or not." *Atas paritum*

*tutis nos nequiores mor*

"Some would have us believe that complaints of the hard are only the natural effects of the paucity of old men lamenting the loss of the delights of their youth & thus pretend that the world instead of growing worse is daily growing better & that men are now more virtuous than ever the truth no doubt lies in the middle

precisely to assign in what respects the world tends to improvement & in what it grows worse or perhaps a task still harder than the other but if men are really improving it seems to be only in speculative knowledge & a regard to the exterior of things for with regard to honest truth uprightness justice

civility it is evident that it grows daily worse though perhaps occasional respectability civility to strangers & the other holy-days

than they were formerly Artificial manners may improve even in the absence of morals as few men are so constant in civility or can afford to be as cruel or as hypocritical in words as the person who is entirely without honor who intends to do no good & who imagines his duty to his fellow creatures to be completed by discharging only by taking any ~~civility~~



In a monarchy the manners & customs of the court & those  
in high office constitute the standard of propriety &  
to the lower class on the contrary in a Republic those  
who possess the talents of flattery & ostentation or who gratify  
the business of demagogues generally set the fashion so far as  
fashions can be said to take place in a Republic institutions  
then that proceed on maxims of justice that engage the minds  
of the citizens in public duties that teach them to estimate rank  
by the measure of personal qualities tend to preserve & to cultivate  
virtue on the contrary such institutions whereby men are stripped  
of their rights or made to hold their possessions at discretion  
under which they are supposed to be governable only by force  
or by the fear of punishment tend to heighten tyranny & inso-  
lence in the

No man ever visage with paleness & to fill every heart  
with jealousy & digestion the greatest & most extensive benefit  
that wise men can hope to procure for their country is the esta-  
blishment & preservation of just institutions & on the other hand  
the greatest injury that men can commit is the overthrow &  
corruption of such institutions however difficult it may be  
to defend it there is such a thing as national character & the

of the Citizens it leads  
to gradual improvement but when it is bad it must corrupt  
morals more & more & lengthen the sense of shame & render  
men totally callous with respect to all distinctions between  
truth & falsehood right & wrong while society is in an im-  
perfect state & the mutual communications of mankind are  
freedom sparing & cautious there will be very little im-  
provement of character but at the same time there will be  
very little improvement. Corporations neighbourhoods  
communities of families or taste are the great centers of society  
& contribute most to form a public spirit while men stand  
aloof from one another & converse only with caution & reserve  
few principles will be generally approved

For the public a just  
sense of liberty & independency gives elevation to a govern-  
& noble mind the person who really loves the public is eager  
to see them better than they are at present in every respect  
better united better directed better guided better informed &  
better advised & governed than they have been hitherto  
while the flatterer on the other hand  
that all is well enough already or augurs bright



but the good  
citizen ought to study the propagation of sound opinions  
the practice of moral & political virtues & above all should

fellow citizens, our political constitution & form of government  
cannot make us worse but we may disgrace it & render  
it unequal measure upheld by bad morals & a want of  
public spirit. If a man has no ambition for a good cha-  
racter it is not probable that he will quietly meet  
trouble & perform his contracts or to avoid disgraced  
conduct

Some of them at least might learn to  
be ashamed of their conduct because a man can derive no  
true honor from the freedom & independency of his country who  
does not reflect honor upon it by the dignity & propriety

"An honest man's the noblest work of God"  
Wrought in his own dealings

profession & a faithful perform-  
ance of all engagements might tend to restore confidence &  
public spirit & put us on a way of getting out of all our  
difficulties but laws & constitutions are quite idle & vain  
without good morals & industry. To restore the credit  
degenerate age to look

impudent vice list of countenance to make those bluffs  
that never bluffed before are no doubt

ambition is only stimulated by difficulties. enterprise

You have

Economy & Policy habit of enquiry is formed by practice  
the several hints that have been thrown out to you & the  
large spots of foundation on which you have been led may  
fairly be of great use to you if you are not wanting to

confound may be of great service for opening your  
mind extending your faculties & introducing you to the know-  
ledge of human nature private study & meditation as well  
as the frequent recollection & careful survey of your past life  
may be of the highest use to you. The practice of Business  
& interference in the affairs of men

many things what you have  
been taught which at present perhaps appear very doubtful  
It costs extremely dear to learn the history of human nature  
by our own experience for that reason the proverb says justly  
that Experience teaches fools if you peruse the history of man-  
kind

you will be so much the better qualified for



capaunt. The doctrines which we have taught you we have  
undecorated to establish by arguments & to illustrate by  
quotations from philosophers & others

& often had occasion to quote Latin & Greek not in order  
to give you a model of proper composition which is not  
immediately our business but to point out to you the ex-  
cellence of these authors

language they are some-  
times put in the hands of boys forgetting that they  
were written by wise men

for 20 Centuries. All  
nations when these authors have not been understood have  
remained barbarous

Science & philosophy has been  
introduced those who have been able to understand them  
in their youth will find them agreeable even in old age &  
will not be disposed to borrow their notions of them

enough to discern their beauties your knowledge of man  
& things will lead you to grasp the constitution of your coun-  
try & to labour to improve

man  
If a man has not parts or talents  
enough or is deficient of an opportunity to serve his country

civil moral & political duties in the best manner if you  
have contracted a love of study & speculation this will be of  
great consequence to you in future as an enjoyment of  
life & an improvement of time as well as in order to com-  
municate to you many delightful & useful truths In-  
debted &

Those who have contracted a just moral taste &  
who put an admiration of true excellence by daily perusing  
the best authors of antiquity you contract a habitual mag-  
nanimity & dignity of sentiment which will lead you to dis-  
cuss all falsehood dissimulation & deceit to detect the

beauty of virtue the study of good authors will tend not less  
to improve your taste than to inform your mind a sense  
of propriety harmony proportion delicacy & beauty is nec-  
-essary to virtue & leads to improvement of manners &  
taste for the fine arts in so far as our circumstances  
allow us to pursue it is also of great consequence to youth  
good company & the conversation of the learned you will  
find

Study to be daily enlarging your ideas

& encourage the youth that is assiduous to labour will never



be a man of spirit & regulation Cultivate your pen-  
ten

& arguments frequently compare your ideas  
& review the progress you have made in some manner of  
Pedantry & vanity dream not of being able to make  
those comprehend what you have learned who are destitute  
of taste & of the Elements of Science Reserve to all  
men

& attention avoid ill company if you have the  
least expectation of the esteem of the public modesty is  
the earnest of knowledge & the true ornament of youth

you give them no cause of offence Remember that  
your having gone through the forms of a liberal Educa-  
tion constitutes a particular rank in life

more surely will be expected of you than of others study  
that the expectations of men concerning you may not be  
totally disappointed Defection & Ingratitude

dequity of manners will

be of more service to you

avoid a ostentatious display of  
your learning beware of an immoderate talkativeness  
as well as of a sullen & stupid silence be ready to hear

dignity but at the  
same time with candor much more a good man so  
remember that your behaviour will not only be of consequence  
to yourself but will in a great measure determine the  
character of your teacher, & of the seminary

to us  
as well as to yourself by a worthy behaviour & that  
you will not by a contrary conduct contribute to disrepute  
those who sincerely wish you well & who have done you  
no injury.









